

The Birth of the
Athenian Community
From Solon to Cleisthenes



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The Birth of the Athenian Community

The Birth of the Athenian Community elucidates the social and political development of Athens in the sixth century, when, as a result of reforms by Solon and Cleisthenes (at the beginning and end of the sixth century, respectively), Athens turned into the most advanced and famous city, or *polis*, of the entire ancient Greek civilization. Undermining the current dominant approach, which seeks to explain ancient Athens in modern terms, dividing all Athenians into citizens and non-citizens, this book rationalizes the development of Athens, and other Greek *poleis*, as a gradually rising complexity, rather than a linear progression. The multidimensional social fabric of Athens was comprised of three major groups: the kinship community of the *astoi*, whose privileged status was due to their origins; the legal community of the *politai*, who enjoyed legal and social equality in the *polis*; and the political community of the *demotai*, or adult males with political rights. These communities only partially overlapped. Their evolving relationship determined the course of Athenian history, including Cleisthenes's establishment of *demokratia*, which was originally, and for a long time, a kinship democracy, since it only belonged to qualified male *astoi*.

Sviatoslav Dmitriev (Ph.D., Harvard University, 2001) has authored *City Government in Hellenistic and Roman Asia Minor* (2005) and *The Greek Slogan of Freedom and Early Roman Politics in Greece* (2011), as well as articles on ancient Greek, Roman, and Byzantine history. His current projects focus on the Athenian orator Demades and the Byzantine erudite John Lydus, who lived a thousand years apart. He is an associate professor of history at Ball State University, Muncie, Indiana.



The reverse of this “Athenian owl” (ANS, 1957.172.1042), a silver tetradrachm from c.515–480 B.C., carries the inscription ΑΘΕΝΑΙΩΝ: “[The coin of] the Athenians,” and, by extension, “of the city of Athens.” The owl, a symbol of wisdom, was the bird of the goddess Athena, the patron deity of Athens, whose image was minted on the obverse (not seen here). The emergence of Athenian coins and their reference to “the Athenians” reflected the birth of the Athenian community in the sixth century. But what did “the Athenians” mean at that time? Did the Athenian community encompass the entire population of the Athenian city-state or only some part of it? And if the latter, how was that population organized? Was it truly one community? *The Birth of the Athenian Community* seeks to answer these and many other questions by reinterpreting the evidence about this time period that fostered the social and political development of Athens and all of ancient Greece, for centuries to come.

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From Solon to Cleisthenes

Sviatoslav Dmitriev

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Preface

The Birth of the Athenian Community reassesses how the social and political organization of classical Athens came into being, and, by extension, it offers a different interpretation of many of the major events and developments in ancient Greek history than has previously been suggested. As part of its argument, it has rejected the traditional modernizing approach that divides the Athenian population into citizens and non-citizens and explains the rise of Athens to predominance in classical Greece in exclusively political terms. Instead, this book emphasizes the supreme importance of kinship and family relations to the social and political organization and development of Athens, as well as the rest of ancient Greek civilization, which was so different from our modern world. I am grateful to Michael Greenwood and Routledge for courageously accepting a non-conformist text for publication. In line with its focus on kinship, lineage, and descent, this book is dedicated to the memory of my father, Victor N. Dmitriev (1939–2016), whose passing away was a loss of life in every sense.

Sweet little vagrant soul,
body's guest and companion,
where are you off to now,
stiff, naked, and pale,
to make no more merry jokes?

P. Aelius Hadrianus, Emp.

Abbreviations

With minor deviations to avoid possible confusions, abbreviations will be those accepted in the following editions. For works of ancient authors: *Oxford Classical Dictionary* (OCD), 4th ed. (2012); for epigraphical publications: *Supplementum Epigraphicum Graecum* (SEG); for papyrology: *Checklist of Editions of Greek, Latin, Demotic, and Coptic Papyri, Ostraca, and Tablets*, 5th ed. (2001). For modern journals, series, reference works, frequently cited texts, and multivolume publications, see

<i>ABSA</i>	<i>Annual of the British School of Archaeology at Athens</i>
<i>AJP</i>	<i>American Journal of Philology</i>
<i>AM</i>	<i>Mitteilungen des Deutschen Archäologischen Instituts, Athenische Abteilung</i>
<i>BCH</i>	<i>Bulletin de correspondance hellénique</i>
<i>Bull.ép.</i>	<i>Bulletin épigraphique</i> (published annually in <i>RÉG</i>)
<i>CAH</i> ²	<i>The Cambridge Ancient History</i> . 2nd ed. Ed. by J. Boardman <i>et al.</i> Cambridge, 1982–1999.
<i>CJ</i>	<i>The Classical Journal</i>
<i>CP</i>	<i>Classical Philology</i>
<i>CR</i>	<i>The Classical Review</i>
<i>CQ</i>	<i>The Classical Quarterly</i>
<i>FGrH</i>	<i>Die Fragmente der griechischen Historiker</i> , vol. 1–3, ed. Felix Jacoby. Leiden, 1923–1958.
<i>FHG</i>	<i>Fragmenta historicorum Graecorum</i> , vol. 1–5, ed. Karl O. Müller. Paris, 1841–1870
<i>G&R</i>	<i>Greece and Rome</i>
<i>GHI</i>	<i>Greek Historical Inscriptions from the Sixth Century B.C. to the Death of Alexander the Great in 232 B.C.</i> Vol. 1–2, ed. Marcus N. Tod. Oxford, 1946–1948
<i>GRBS</i>	<i>Greek, Roman and Byzantine Studies</i>
<i>ISE</i>	<i>Iscrizioni storiche ellenistiche</i> , vol. 1–2, ed. Luigi Moretti. Florence, 1967–1975; vol. 3, cur. Filippo Canali De Rossi. Florence, 2002.
<i>JHS</i>	<i>Journal of Hellenic Studies</i>

<i>ML</i>	<i>A Selection of Greek Historical Inscriptions to the End of the Fifth Century B.C.</i> , ed. Russell Meiggs and David Lewis. Rev. ed. Oxford, 1969.
<i>NP</i>	<i>Der Neue Pauly: Enzyklopädie der Antike</i>
<i>OCD</i> ⁴	<i>The Oxford Classical Dictionary</i> ⁴ , ed. Simon Hornblower, Antony Spawforth, and Esther Eidinow. Oxford and New York, 2012.
<i>RE</i>	<i>Paulys Real-Encyclopädie der Classischen Altertumswissenschaft</i>
<i>RÉG</i>	<i>Revue des études grecques</i>
<i>R&O</i>	<i>Greek Historical Inscriptions: 404–323 B.C.</i> , ed. Peter J. Rhodes and Robin Osborne. Oxford and New York, 2003.
<i>StV</i>	<i>Die Staatsverträge des Altertums</i> . Vols. 2: ed. Hermann Bengtson, and 3: ed. Hatto H. Schmitt. Munich, 1960–1969.
<i>Symposion</i>	<i>Symposion. Vorträge zur griechischen und hellenistischen Rechtsgeschichte</i> . 1971–present.
<i>ZPE</i>	<i>Zeitschrift für Papyrologie und Epigraphik</i>
<i>ZRG</i>	<i>Zeitschrift der Savigny-Stiftung für Rechtsgeschichte. Romanistische Abteilung</i>

English translations of ancient texts come, with occasional modifications, from the *Oratory of Classical Greece* and the *Loeb Classical Library*, unless noted. On the authorship of Demosthenes's speeches, I have followed the opinion of M. R. Dilts in *Demosthenis Orationes* (2003–2009) over the more generous approach in D. M. MacDowell's *Demosthenes* (2009). The division of Demosthenes's speeches into groups, on the basis of their alleged authenticity and/or time of publication, which was suggested by E. M. Harris (2013b: 401–402), needs further examination.

Timeline of Athenian history

621–620	Traditional date of Draco's legislation
594–593	Traditional date of Solon's archonship and reforms
546	Pisistratus finally succeeds in permanently establishing his tyranny
527	Death of Pisistratus; accession of the Pisistratids: Hippias and Hipparchus
514	Conspiracy led by Aristogeiton and Harmodius. Murder of Hipparchus
510	Expulsion of Hippias. Scrutiny (<i>diapsephismos</i>) of the Athenians
508–507	Traditional date of Cleisthenes's reforms
490, 480–479	Persian wars. The building of the Athenian navy
451–450	Pericles's "citizenship law"
445–444	Traditional date of scrutiny (<i>diapsephismos</i>) of the Athenians
431–404	The Peloponnesian War
411	Rule of the Four Hundred
404–403	Rule of the Thirty
403–402	Scrutiny (<i>diapsephismos</i>) of the Athenians



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Map



Athens and the Greek World.

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Introduction

More than a place: Athens in the sixth century

For men, not walls or unmanned ships, make the city.

Thucydides 7.77.7

Ancient and modern texts often speak of Athens, the most famous city in ancient Greece, as a group of people – “the Athenians were defeated” or “the Athenians sent an expedition” or “the Athenians signed a treaty.” Such references present the city of Athens as a collective authority, or a community. However, although Attica, the territory of Athens, had been populated for a very long time, neither ancient nor modern authors have a clear vision of how the community of Athens actually came into being. Greek authors from the fifth century B.C. (Thucydides) to the second century A.D. (Plutarch and Pausanias) reflected a tradition that rationalized the origins of Athens as a coalescence, or synoecism (*synoikismos*), of the local settlements in Attica by Theseus, a semi-legendary king of Athens. The earliest account, by Thucydides, says that:

in the time of Cecrops and the earliest kings down to Theseus, Attica had been divided into separate townships (*poleis*), each with its town hall (*prytaneia*) and magistrates (*archontas*). . . . But when Theseus became king . . . he abolished the councils (*bouleuteria*) and magistrates of other townships and brought their inhabitants into a union (*synoikise*) what is now the city (*polis*), establishing a single council and a town hall, and compelled them, while continuing to occupy each his own lands as before, to use Athens as the sole capital.

The so-called Parian Chronicle – an inscription from perhaps the mid-third century B.C. – probably reflected this tradition when stating that Theseus “brought the twelve townships (*poleis*) into one.” The Athenians appear, however, to have had more than one version of their city’s foundation.¹ In addition to the story associating the synoecism of Athens with Theseus, there was also a tradition that ascribed the first step in that direction to a much earlier ruler. Writing in the early imperial period, Strabo referred to the opinion of Philochorus (*fl.* late fourth–early third cent. B.C.), according to whom,

2 Introduction

when the country was being devastated, both from the sea by the Carians, and from the land by the Boeotians, who were called Aonians, Cecrops first settled the multitude in twelve cities (*Kekropa proton eis dodeka poleis synoikisai to plethos*), the names of which were Cecropia, Tetrapolis, <Tetrakomoi>, Epacria, Deceleia, Eleusis, Aphidna (also called Aphidnae, in the plural), Thoricus, Brauron, Cytherus, Sphettus, Cephisia. And at a later time Theseus is said to have united the twelve into one city (*palin d'hysteron eis mian polin synagagein legetai*).²

This evidence from Philochorus – who, as many have noted, named only eleven cities – is compatible with references by Thucydides and the Parian Chronicle to “twelve cities” that existed in Attica from Cecrops down to Theseus. The twelve townships (*poleis*) of Philochorus are also reminiscent of the twelve phratries into which the earliest Athenians were divided, according to one of Aristotle’s fragments:

In the time before Cleisthenes arranged the organization by tribes, the Athenian multitude (*plethos*) was divided into peasants and craftsmen (*georgous kai demiourgous*). And they had four tribes. Each of the tribes had three parts, which they called “phratries” and “thirds” (*trittyas*). Each of these consisted of thirty *gene*, and each *genos* had thirty men (*andras*) assigned to the *gene*, whom they called *gennetai* . . . so that on the whole there appeared to be twelve parts (*mere*), just like months in a year, and they were called “thirds” and “phratries.”³

Plutarch’s biography of Theseus adds that he divided the population of Athens into noblemen (“sons of good fathers”), farmers, and craftsmen (*eupatridas kai geomorous kai demiourgous*).⁴ The latter two groups evidently formed the Athenian multitude (*plethos*) in the above-quoted fragment by Aristotle, who passed over the tradition about Cecrops: his *Athenian Politeia* (41.2) marked the two earliest forms of organization of the Athenian population as having been authored first by the semi-legendary Ion, who lived long before Cecrops and who had divided the Athenians into four tribes and established tribal kings (*phylobasileis*), and then by Theseus – before moving to the laws authored by Draco in the late seventh century.

There are at least two possible reasons for the emergence of more than one version of Athenian synoecism. One was the progression of Athens from a political unity, which Snodgrass acknowledged as the crucial element of synoecism, to a physical agglomeration.⁵ Hence, different perceptions and datings of the Athenian synoecism have been offered: those who see it as a one-time event date it to the fifteenth (Lohmann) or tenth (Diamant) or eighth century (Gagarin) or acknowledge its existence by the seventh century (Luce), while those who consider this synoecism to have been a process date it to the period from the thirteenth to the eighth/seventh century (Padgug) or the sixth century (Manville).⁶ The second reason, which complements the first, was that diverse views on this subject had to

be accommodated and brought together in a consistent story, combining multiple legends and allusions (Robertson 1992, 5). Thus, Cecrops – the first king of Athens, according to the Parian Chronicle⁷ – was seen as closely connected with Erechtheus, who was mentioned as born of the earth and associated with Athens in the *Iliad* (2.546–548) and who played a major part in the Athenian doctrine of autochthony, or the local origins of the Athenians.⁸ The latter concept was a compound of the words *autos*, “same” or “self,” and *chthon*, “land” or earth,” so that the meaning could have been either “from the same land” or “from the land itself.” Athenian artists represented them as half-men and half-snakes, and they painted Cecrops as the anguipede, or “serpent-footed.” These images may have had something to do with the image of Draco, whom the Athenians considered to have been the author of their earliest written laws.⁹ The subsequent development of Athens thus provoked reinterpretations of how that city came into being. Thucydides does not mention the number of local townships in Attica. According to him, Theseus’s synoecism appears to have been of a political nature, because local townships continued to occupy the same territories as before. Euripides’s words (*Suppl.* 429–436) that Theseus gave laws to the Athenians leave a similar impression of Theseus’s synoecism as a common administration rather than a physical agglomeration. If we follow Philochorus and the Parian Chronicle, the twelve phratries mentioned by Aristotle can be easily identified with the twelve townships into which Cecrops organized the people of Attica (in the version by Philochorus), and which Theseus later brought into the one city of Athens. According to Aristotle, twelve phratries formed four tribes, so that each tribe was comprised of three phratries. Hence, phratries were also known as “thirds,” or *trit-tyes*. Each phratry consisted of thirty clans (*gene*), and each clan included thirty people. The latter were probably meant to be the heads of households (*oikiai*, or *oikoi*).¹⁰

The equal numbers have looked suspicious to many.¹¹ However, this skepticism does not undermine the hierarchy of the relative sizes of those organizations,¹² while the underlying assumption has been that “all Athenian citizens were members of a *genos* and that the *genos* constituted a wholly contained segment of public organization” (Jones 1999, 248). Also, as noted above, Aristotle believed that the earliest social organization of Athens was comprised of the *gennetai*, whom he understood as kinsmen. He wrote elsewhere that a coalescence of households (*oikiai*) of fellow-nurslings (*homogalaktes*) created villages (*komai*), whereas a coalescence of villages brought about a city (*polis*). According to him, therefore, the original core of the *polis* was formed by *homogalaktes*, or fellow-nurslings – literally, “persons suckled by the same milk,” from *homoios*: “the same,” and *gala*: “milk” – whom the Greeks also identified with *gennetai*.¹³ Plutarch and Pausanias likewise presented Theseus’s synoecism as resulting from his negotiations with local *demoi* (basically, “villages”) and *gene* (“clans”), reflecting the later view that Theseus brought local kinship communities together, making them the core of the future city.¹⁴

Stories about the creation of Athens out of a coalescence of local “townships,” “villages,” and “clans” emerged only later, however. Theseus’s role in the

4 Introduction

Athenian synoecism has been acknowledged as a later interpretation in retrospect, and the same can be said about the much earlier Cecrops.¹⁵ The Athenian idea of autochthony developed at the turn of the fifth century,¹⁶ although precise dating is impossible: we should speak, instead, of a process that was marked by several major steps. If the beginning of the veneration of Cecrops, who became the eponymous hero of one of Cleisthenes's ten new tribes (see chapter 6), dates to the sixth century, the Athenian idea of autochthony emerged at or by that moment. The growth of public images of Theseus and his exploits in the late sixth century has been well documented. Other important steps in the development of the idea of autochthony were the Athenian general Cimon bringing Theseus's bones from the island of Scyros immediately after the Persian wars, and the establishment of the shrine of Theseum in Athens at some time after 476–475 B.C.¹⁷

Aristotle's view that Athenian tribes and phratries were originally comprised of only the *gennetai* has been seen as reflecting "4th century antiquarian theorizing,"¹⁸ and while some studies follow the later Greek idea of Athens' origin as a complex kinship organization,¹⁹ this view has similarly been disputed by those who asserted that phratries – and probably other social divisions of late archaic and classical Athens – did not become territorial and political entities until after the emergence of the *polis* of Athens, and that such entities acquired the character of kinship organizations only gradually.²⁰ It follows that the later written evidence, including references to Athenian synoecism(s), does not help our understanding of the genesis and functioning of the Athenian social and political organization in the late archaic and classical periods. Concomitantly, even those who uphold the pre-historic (i.e., evidently, pre-*polis*) origins of the Athenian phratries avoid discussing their character during that time.²¹ More important, regardless of how they see the beginnings and the original nature of Athenian phratries and other social entities, both sides in the debate acknowledge the kinship character of these organizations in later times, during the late archaic and classical periods.

Moving to the safer turf of archaeological and anthropological evidence, the beginning of the drive for communal life and collective self-rule in ancient Athens, and Greece in general, has been asserted on the basis of information about the proliferation of communal sanctuaries, cemeteries, and cults from as early as the eighth century.²² Reflecting this rise of communal sentiment, hereditary monarchy gradually gave way to elected officials, or archons, whose terms of office were eventually reduced to one year in the early seventh century.²³ Later Greek authors believed that a person named Draco authored the first Athenian written laws, which have traditionally been dated to around 621–620.²⁴ However, neither the identity of the lawgiver nor, accordingly, the date of the laws can be established with certainty. The earliest known mention of Draco was actually made by the Athenian comic poet Cratinus in the fifth century (Crat. fr. 274 [K.] = Plut. *Sol.* 25.2). Some have even interpreted the image of Draco as an artificial construct whose name was derived from "snake" (*drakon*), either because of the severity of the laws, which were remembered as "written not in ink but in blood," or because they thought of the laws as having been issued on the authority of the sacred snake, which was an animal worshipped on the Athenian Acropolis.²⁵ Whether

Draco's laws represented a comprehensive legal code or concerned only homicide has been debated (see page 55, n. 148) because, evidently, only homicide laws ascribed to Draco survived Solon's overhaul of Athenian legislation in the early sixth century.²⁶ In Greek tradition, Solon's laws were published on the so-called *axones* (for which *kырbeis* was probably an alternative name: see page 165, nn. 141–144) that probably were numbered and rotating three- or four-sided vertical or horizontal wooden tablets. The emergence of written laws reflected the evolution of the Athenian community, which culminated in the sixth century, when Athens was perceived less and less as a territory ruled by aristocratic families and more as the people who lived in that territory, the Athenians.²⁷

This development displayed itself in other ways as well. Anthropologists have pointed to the rise in collective activities, most visibly in the field of religion: many, if not most, Athenian cults that flourished in later times first emerged in the sixth century.²⁸ This was when large-scale stone buildings and sculptures of a type other than *kouroi*, or nude male figures whose original purpose was to serve as grave markers, appeared in Athens. These *kouroi* “seem to disappear abruptly from city cemeteries during ca. 590–530 B.C.”²⁹ The buildings were temples that were used by Athenians regardless of their family or clan affiliation.³⁰ The sculptures on the Acropolis, an elevated place that originally served as the citadel of the city and the last place of refuge for its residents, started to bear inscriptions for public view in about the mid-sixth century, reflecting the transformation of the Acropolis into a public space.³¹ Regardless of whether such projects were products of “collective planning and deliberation” or a “series of self-promoting *grands projets*” fueled by the competition of prominent noble families,³² their ultimate purpose was to make a lasting impression on the population of Athens in the place most frequented by the majority of the city's residents, and to involve them in public life in this way. The end result was to foster the collective identity of the Athenians. A similar conclusion follows from the evidence about building the monumental temple of Athena on the Acropolis, probably around 570.³³

The Athenian Agora, whose original and basic purpose was to serve as a marketplace, was also developing into a civic center. The laws of Draco, in the form in which they were republished at the end of the fifth century, as well as several other later texts, show that the Athenians had the Agora – or the Old Agora, as it would be known in later times – to the north and east of the Acropolis by the late seventh century. According to the laws of Draco, pronouncements against killers were to be made in the Agora by members of the victim's family and/or his fellow phrateres. And it was in the Old Agora that Solon, having faked madness, gathered a crowd of Athenians whom he urged to go to fight for Salamis.³⁴ Sometime in the early sixth century a new Agora was developed, northwest of the Acropolis. (fig. 1).³⁵

Around the edges of the New Agora were some of Athens' principal public buildings – the law courts, the Prytaneum, the council house or the Bouleuterium, and the Royal Stoa – none of which can be dated to before the mid-sixth century. (fig. 2).³⁶ The earliest known public inscriptions from Athens – *horoi*, or boundary stones, which marked the boundaries of the Athenian Agora as a public

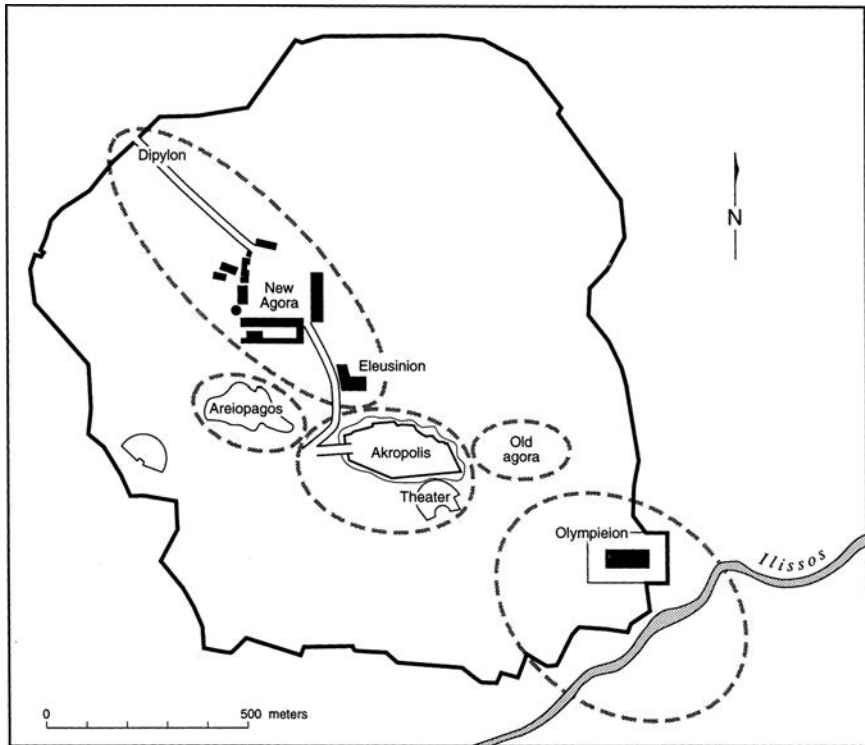


Figure 1 The Old Agora and the New Agora of late archaic Athens.

space – date to about 520 B.C. (fig. 3).³⁷ The first wall appeared to have been built around the city of Athens in the middle of the sixth century, during the tyranny of the Pisistratids.³⁸

Evidence found on coins points in the same direction. The numismatists have often defined the earliest Athenian coinage, which emerged in the first half of the sixth century, as “heraldic coins.” The diversity and varying types of this coinage have been explained as resulting either from competition among prominent noble families or – if the origins of those coins date to the period of the Pisistratid rule – from the activities of individual minting officials, which still largely reflected family ambitions.³⁹ Uniformity then set in with the emergence of the famous Athenian owls, coins like the one whose image graces the frontispiece of this book. The beginning of this coinage was originally dated to the 560s, but more recent works have put it in the last quarter of the sixth century.⁴⁰ The owls carried the words ΑΘΕ[Ι]ΝΑΙΩΝ (“of the Athenians,” and, by extension, “of the city of Athens”), thus also reflecting the birth of the Athenian community. Sometime early in the sixth century, one of Solon’s elegies referred to the “Athenians,” and an inscription from the mid-sixth century is the earliest available reference to the

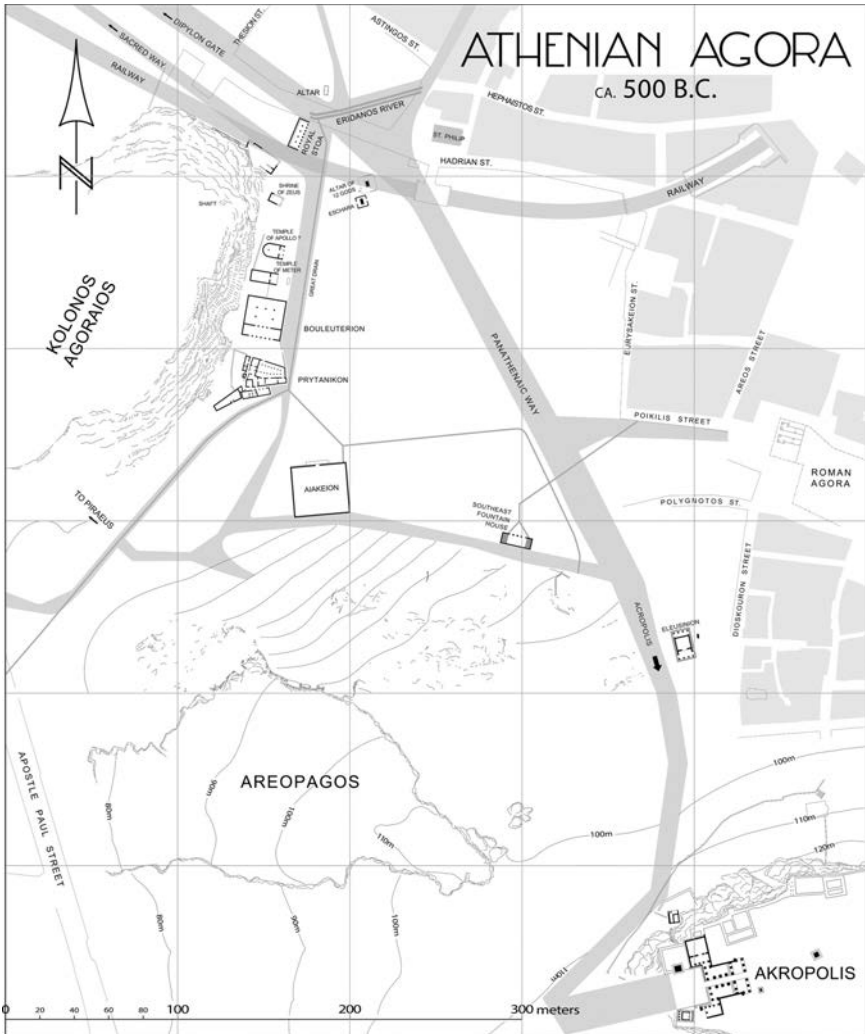


Figure 2 The New Agora of Athens and its buildings in the late archaic period.

Panathenaic celebration; it was centered on the grand temple of Athena Polias on the Acropolis, which was built at about that time.⁴¹

Material and written evidence shows that important social and political developments were taking place in sixth-century Athens. Yet, questions remain. Who were those “Athenians”? Were they the entire population of Athens, or only a portion of it?⁴² And if the latter was true, how was that population organized, and can we, in fact, speak about it as one community? Answering these and other questions about sixth-century Athens raises several challenges, all of which pertain to the nature

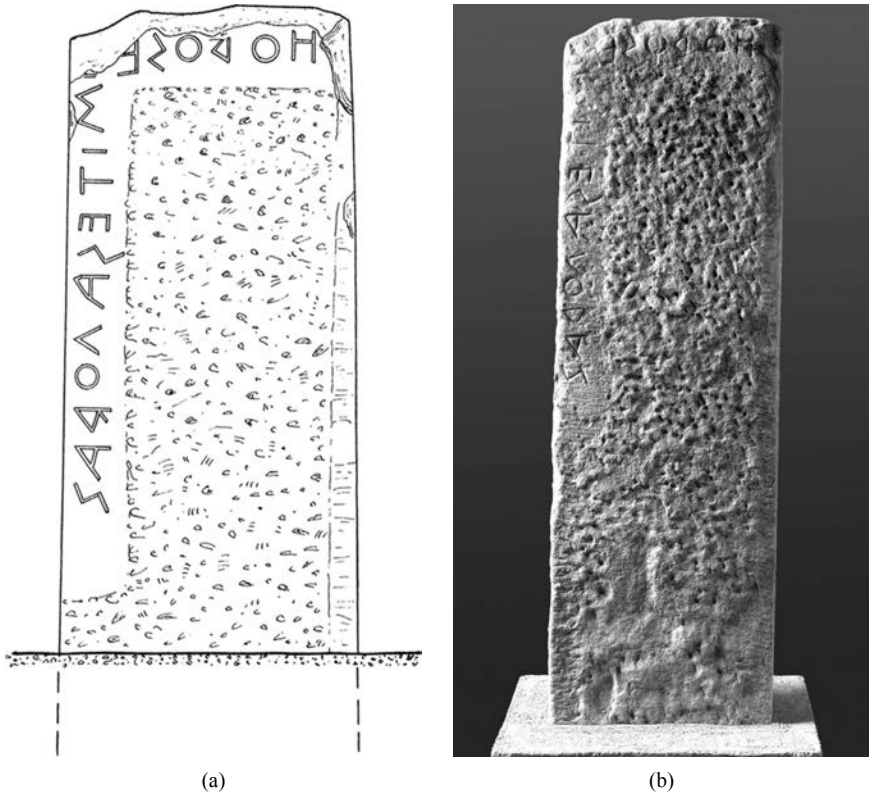


Figure 3 A drawing (a) and a photograph (b) of the boundary stone (*horos*) I 7039 of the New Agora, carrying the inscription “I am the boundary of the Agora” (*horos eimi tes agoras*).

of available evidence and its interpretation. One such challenge is that, with the exception of Solon’s poems – which are often far from easy to interpret and which are often too quickly discarded as later inventions – and a handful of other texts, our written evidence about sixth-century Athens belongs to a later time. Serious Greek historical writing about contemporary events only began with the Persian wars; anything written about earlier periods is liable to be invention and myth.⁴³ Archaeological finds, too, have often received more than one dating and interpretation, including both the above-mentioned Athenian owls and the so-called Royal Stoa (for the latter, see also chapter 4). All of this data has to be put together with written evidence that belonged to later periods and often relied on oral tradition.

The scarcity of information from sixth-century Athens and its often problematic character require any study on this topic to use and sift through material from the fifth and fourth centuries, or classical times, and also from the so-called Hellenistic period, which is a modern definition for the three centuries between the death of Alexander the Great in 323 B.C. and the establishment of direct Roman

domination over the Greek world, as well as from the subsequent Roman imperial period. Another challenge is that due to the importance of the sixth century for the subsequent social and political history of Athens, later generations of Greeks not only collected relevant information but also modernized it in their interpretations. Relying on literary texts, inscriptions, plays, speeches, coins, and other materials about sixth-century Athens that were produced at a later time means studying the history of that period in retrospect, through the lenses of later ideas and vocabulary. Subsequent generations of Athenians, and Greeks in general, often ascribed words and actions to their famous ancestors that they had never authored, and erroneously assigned the origins of important laws, norms, concepts, and ideas into their ancestors' time. In particular, such later perceptions have produced the visions of the regime established by Solon in Athens as *politeia* and of the new political system founded by Cleisthenes as *demokratia*, although these terms emerged only in the following century.

Not only do we need to disentangle concepts and ideas used in later Greek texts about the sixth century, but also present-day terms and conceptions that are retrospectively applied in modern studies. They blur our vision of sixth-century Athens by presenting Solon's *politeia* as "citizenship" and holding Solon up as the founder of "Athenian citizenship." Such perceptions include approaching the free population in Athens and other ancient Greek cities from a modern-day premise as having been divided in a bipartite fashion into "citizens" and "non-citizens."⁴⁴ What basis do we have for speaking about Athenian "citizens" in the sixth century and referring to Solon as the founder of the Athenian citizenship, if we do not even know the form of the basic political division of Athens before Cleisthenes's reform in the late sixth century? Additionally, ancient Greeks understood political rights differently from us, and they did not have the idea of citizenship, which itself is actually only three centuries old.⁴⁵ The approach to the population of Athens, and other Greek cities, as having been divided into citizens and non-citizens not only contradicts available evidence but also creates confusion by planting recently coined terms and concepts in an alien context.

The following pages examine the social development of sixth-century Athens not as a linear progression but as a gradually rising complexity that evolved into a multidimensional social fabric, comprising three major social groups or communities. Although each of them included some of the same people and, therefore, each of these communities was closely interwoven with the others, they were not identical; each was formed according to different principles of selection, and the status of its members was different. The aim of this book has determined its structure and organization. The first part will examine the Athenian kinship community, focusing on its establishment through Solon's reform as well as its organization and principles. The second part will move on to discuss the legal community of Athens, meaning the people who had the same, or almost the same, legal and social status in the city. Although it included members of the kinship community, this group was also open to those who obtained that status as a privilege from the city of Athens. Finally, the third part will examine the political community, or the people who had political rights in the city and, broadly speaking, who influenced the political history of Athens and of ancient Greece in

general. While the three communities partially overlapped, they represented different social entities, whose origins, evolution, and diverse forms of interaction reflected the historical development of Athens, beginning in the sixth century and continuing into much later times.

Notes

- 1 Thuc. 2.15.1–2; Plut. *Thes.* 24.1–4; Paus. 1.1.2, 2.22.6–7; *IG* XII.5, 444 = *FGrH* 239 (Marmor Parium), F A 20. Such versions: Moggi (1976, 62–65); Flament (2010, 144).
- 2 *FGrH* 328 (Philochor.) F 94 = Strabo 9.1.20, C 397, with Ferguson (1910, 274–275); Moggi (1976, 67) (with n. 62). For further evidence and discussions concerning the “synoecism of Cecrops,” see De Sanctis (1975, 35–37); Harding (2008, 21, 191–193), with Costa (2010, 215–229), arguing for the connection between the development of the legend and the rise of the idea of Athenian autochthony in the fifth century. For restoring <Tetrakomoi> in this place, see F. Jacoby, in *FGrH* III.b, suppl. 1, 393; Lewis (1997, 90–91); Costa (2010, 223).
- 3 The *Lexicon Patmense*, s.v. γεννηται = Sakkellion (1877, 152), s.v. γεννηται = Arist. fr. 385 = *Lexica Graeca Minora*, 162.
- 4 Plut. *Thes.* 25.1–2. On evidence for these occupational classes, see Robertson (1992, 74–77).
- 5 Snodgrass (1980, 34). Political synoecism as preceding physical agglomeration: K. Van Gelder, in *Med. Arch.* 4 (1991), 63: “a political unification must have preceded the physical *synoikismos* at the end of the Bronze Age, or resulted from it, so that, on the threshold of the Iron Age, Athens was the only state in Attica”; Luce (1998, 25–26).
- 6 Lohmann (2010, 35–46). Diamant (1982, 46); Gagarin (2005, 123); Luce (1998, 22, 29); R. A. Padgug, in *GRBS* 13 (1972): 135–150; Manville (1990, 55–56, 76); cf. Roussel (1976, 141, 194–195): on the Mycenaean and/or Thesean synoecisms.
- 7 *IG* XII.5, 444 = *FGrH* 239 (Marmor Parium), F A pr.-1; Gourmelen (2004, 48–56); Brulé (2007, 182–183); Harding (2008, 191–195).
- 8 E.g., Ogden (1996, 166–167) (“the Athenians saw themselves as descended from either or both of these kings”); Zacharia (2003, 60–63) on their relationship. Cf. Leão (2012, 139) on the idea of “being born from the soil” as earlier than, and independent of, the idea of autochthony, even though the two were closely interconnected, and a similar approach in Zacharia (2003, 56).
- 9 For these images, see Loraux (1993, 38–41); Gourmelen (2004, 31–48); Ogden (2013, 259–260) (with nn. 95–97).
- 10 For *genos* as consisting of *oikiai*: Arist. *Ath. Pol.* 20.1–3, with Hdt. 5.72. For *oikia* as a “house” or “household” in general as opposed to *oikos* as “property”: MacDowell (1989, 11); Sealey (1994, 14–15). Other ancient texts, however, held a household, *oikos*, to consist of individual properties, *oikiai*: Cox (1998, 135–137). The choice between *oikos* and *oikia* makes no difference for the current examination that applies *oikos* in the sense of a “household,” which has been the traditional use of the word.
- 11 Day and Chambers (1962, 161); De Sanctis (1975, 88–89); Manville (1990, 64–65); Welwei (1992, 123); Jones (1999, 247–248). Cf. Ferguson (1910, 260) and Lambert (1998, 371–383), who accepted and rejected this evidence, respectively.
- 12 So also, e.g., Manville (1990, 65); Robertson (1992, 61–62); Parker (1996, 59–60); Smith (2006, 122); Hall (2014, 239).
- 13 Arist. *Pol.* 1.1.7, 1252b.16–19, 28–30; Harp. Γ 5. The *homogalaktes*: *FGrH* 328 (Philochorus) F 35a (see page 52, n. 107); Poll. 6.156 = Ruschenbusch (1966), F 59 = Martina (1968), F 518.
- 14 Plut., *Thes.* 2.2, 24.1–2, 32.1; Paus. 1.22.3. This view: Sealey (1987, 108) (on tribes, *gene*, and *phratries*).
- 15 Theseus: Connor (1970, 143–144, 146–151) (on the promotion of the image of Theseus by the Pisistratids in the sixth century); Diamant (1982, 38); Calame (1990, 438–441);

- Walker (1995, 35, 50–55) (on the promotion of the image of Theseus after the rule of the Pisistratids); Flament (2010, 144); cf. Luce (1998, 14–19), who argued that the legend about the synoecism of Theseus predated the classical period and that Theseus’s veneration was associated with the Old Agora (on this, see nn. 34 and 35 below). For Cecrops, see esp. Gourmelen (2004, 28–48).
- 16 E.g., V. J. Rosivach, in *CQ* n.s. 37 (1987), 297 (with n. 11); Calame (1990, 438–441); Loraux (1993, 41); Ogden (1996, 66); Fouchard (1997, 184–185); Cohen (2000a, 79–103); Blok (2009b, 254–255, 261); Osborne (2010, 250–251); Lape (2010, 16); Costa (2010, 215–229) (see n. 2 above). Cf. dating the idea of the Athenian descent from Erechtheus to the time before the sixth century (Blok 2009b, 261) or to the early fifth century: Lape (2010, 17) (with reference to evidence from visual arts) and Osmers (2013, 156). For the term “autochthony” as a modern creation, see, e.g., Leão (2012, 137 n. 7).
 - 17 Cecrops: Ogden (2013, 260–261); Osmers (2013, 155–156). Theseus’s images: Hall (2014, 250–251). Bones and the shrine: Plut. *Thes.* 36.1–4 and *Cim.* 8.5–6; Paus. 1.17.2, 6, with Rhodes (1981, 211); Schol. Aeschin. 3.13 [40–41]. The date and the context: A. J. Podlecki, in *JHS* 91 (1971), 141–143; Walker (1995, 55–61); N. Robertson, in *Hesperia* 67 (1998), 296.
 - 18 Davies (2012b, 609).
 - 19 On the kinship character of prehistoric Athenian phratries: Roussel (1976, 109–116); Andrewes (1982, 367).
 - 20 E.g., Roussel (1976, 142–146, 194, 197); Manville (1990, 60): “whether original subdivisions of tribes or (more likely) subsequent social formations, phratries eventually developed into kinship corporations,” 64–67 (incl. 65: “*Phratiriai*, *gene*, and *orgeones* did not begin as pure lineages descended from one common ancestor, but they nonetheless developed kinship structures over time”), 70–72; Hedrick (1991, 267); Smith (2006, 117–121) (a useful overview of the history of the problem), 136 (“the *genos* as we see it belongs to a period after the sixth century . . . and unsurprisingly it is not a helpful index of earlier realities”).
 - 21 E.g., Lambert (1998, 271). For the difficulty of establishing the original character of the four Athenian tribes and other social entities, see Roussel (1976, 141–143); Foxhall (1997, 119); Anderson (2003, 20): “a systematic political incorporation of Attica could not have been attempted much before the later seventh century, a time when the first secure traces of state institutions in Athens begin to emerge from the shadows of prehistory.”
 - 22 E.g., Morgan (1993, 18–44); Cole (1995, 292–325); Fehr (1996, 165–191); Morris (1997, 34–36).
 - 23 Arist. *Ath. Pol.* 3.4 with Rhodes (1981, 103). Discussion of sources: Jacoby (1949, 169–176); Harding (2008, 86–87).
 - 24 E.g., Arist. *Ath. Pol.* 41.2, with Pepe (2012, 7) (with extensive bibliography); MacDowell (2012, 477).
 - 25 Severity of the laws: e.g., Arist. *Rhet.* 2.23.29, 1400b.20–23; Figueira (1993, 234), who connected this association with the traditional interpretation of Draco’s laws as extremely harsh. This expression: Plut. *Sol.* 17.3; cf. Arist. *Pol.* 2.9.9, 1274b.15–17; Tzetz. *Chil.* 5.342–349 (K., L.). The image of the snake: Sealey (1987, 115–116); Robertson (1992, 16); *pace* Ogden (2013, 263). The snake was associated in Athens with Cecrops and Erechtheus, mythical rulers of Athens who were closely tied with the doctrine of autochthony of the Athenians (see above).
 - 26 Arist. *Ath. Pol.* 5.2. The debate on its dating: Flament (2007, 290–293). Establishing the exact dating of Solon’s reform has no bearings on the conclusions made in this book.
 - 27 In general: Guarducci, in *Atti della Pontificia Accad. Rom. di archeol. Rend.* 7 (1929–1931), 101–107; Holland (1941, 346–362); Robertson (1986, 147–176); Davis (2011, 1–35). The emergence of the Athenian written laws: chapter 4.
 - 28 Shapiro (1989, 12–15); Whitley (2001, 256).
 - 29 Snodgrass (1980, 145–146); Shapiro (1989, 5–8). The quote: Anderson (2003, 24).

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- 30 The old Athena temple on the Acropolis: Childs (1992, 1–6); M. B. Moore, in *AJA* 99 (1995), 633–639. More than one Attic clan attending to, and competing over, the cult of the same deity: S. D. Lambert, in *ZPE* 167 (2002), 22–26.
- 31 Hurwit (1999, 104–105); Keesling (2003, 3–21).
- 32 See Anderson (2003, 91, 107).
- 33 Shear (1978, 2–3); Hurwit (1999, 111–112); Camp II (2001, 30–31) (the period of Pisistratus and his sons), 54 (ca. 510–500).
- 34 Pronouncements: *IG I³* 104.27–28; [Dem.] 43.57 (see page 51, n. 92), 47.70. After the pronouncement was made, the defendant had to keep away from the Agora and from other proscribed places in the city: Dem. 20.158. For the cults and shrines associated with the Old Agora, see Robertson (1992, 43–48), who noted that the practice of performing burials in the area of the Agora stopped around 600 (94), and that the Agora only started to be used as a public space from the early sixth century (95, with n. 20). Solon: Plut. *Sol.* 8.1–2.
- 35 Old and new Agora: Martin (1951, 256–257); Étienne *et al.* (2000, 113) (and fig. 38); Camp II (2010, 15–17).
- 36 Principal public buildings: Étienne *et al.* (2000, 113) (dating); Whitley (2001, 190). The Royal Stoa: Arist. fr. 385 = Poll. 8.111. The building of the Royal Stoa has been generally put in the period between the mid-sixth century (the earlier view) and the late sixth century (the more recent opinion), with the understanding that it was reconstructed after the Persian occupation of Athens in 480: see T. Leslie Shear, Jr., in *Hesperia* 40 (1971), 243–255 and 44 (1975), 365–370; Camp II (1986, 100–105); Shear (1994, 240); Whitley (2001, 190); Camp II (2001, 45).
- 37 Lalonde (1991, 6); Whitley (2001, 190); Camp II (2014, 97): “the boundary stones here are more likely to be pre-Persian than not, favoring a Kleisthenic or even Peisistratid date for their erection.”
- 38 This topic has been much debated because of the total lack of relevant archaeological evidence and the limited amount of later-written references that have received many and diverse interpretations. Still, the general consensus seems to be that Athens had a city wall before the Persian wars and, probably, as early as the mid-sixth century. For written sources and bibliography, see R. G. A. Weir, in *Phoenix* 49 (1995), 247–258; A. M. Theodoraki, in *Hesperia* 80 (2011), 71–75; Frederiksen (2011, 32, 46–47) (arguing that this archaic wall was later removed), 133.
- 39 Kraay (1976, 56–60); J. H. Kroll, in *ANSMN* 26 (1981), 2, 30; Alfén (2012, 89–90). Cf. Bourriot (1976, 828–830 n. 198).
- 40 Kraay (1966 324, 1976 61); J. H. Kroll and N. M. Waggoner, in *AJA* 88 (1984), 328; Alfén (2012, 91); cf. Horsmann (2000, 263, 276), dating the emergence of “heraldic coins” to about 550, and the origins of the owls to the fall of the tyranny, with similar conclusions by Vin (2000, 147–153) and G. Davis, in *Historia* 63 (2014), 259 (on the origins of the owls during the period from 510 to 490). For the development of this image, and its significance, see H. A. Shapiro, in eds. Rosen and Farrell (1993, 213–224).
- 41 Martina (1968), F 329 (= fr. 3, Diehl). *IG I³* 1469 (ca. 540 B.C.?), with Robertson (1992, 91) (nn. 2–3). The temple: Étienne *et al.* (2000, 214–215); Rose (2012, 341–350), arguing against those who dismiss or downplay the role of the Pisistratids in forging the unity and common identity of the Athenians, with reference to the Panathenaic celebration, among other things.
- 42 Cf. Welwei (1990, 172), who defined the “Athenians” in Solon’s elegy (see preceding note) as “self-evidently” the entire free population of “Attic descent.”
- 43 Finley (1975, 11–33).
- 44 E.g., Ober (1989, 4–5, 261); I. Weiler, in *Klio* 71 (1989), 56–57; Hansen (1991, 86); Oulhen (2004, 257); Lanni (2006, 18–19); Lape (2010, 2–3); Harris (2013b, 22).
- 45 See chapters 4 and 6.

Part 1

The kinship community

Modern studies refuse to trace the origins of the Athenian kinship community to the pre-historic period of Attica and, in particular, to Athenian synoecism in whatever form(s) and at whatever date(s) it might have occurred. The majority opinion has been that Athenian tribes, phratries, and *gene* emerged as political and territorial entities and only developed kinship features later (see introduction). Regardless of how and when this transformation took place, the kinship community existed in Athens in the late archaic period: the earliest available evidence comes from Draco's homicide law, dated to the late seventh century. This community was then profoundly transformed as a result of reforms which later Greek authors ascribed to Solon. He organized and homogenized that community by introducing a strict uniform requirement for its membership and many other regulations in the early sixth century. Solon thus created the community that was comprised of people connected by real or imagined ties of common ancestry and blood relation. The idea of common kinship was a later social fiction. Apparently, it was closely linked with the propagated view of the autochthony of the Athenians, which became visible in the fifth century. Herodotus marked Athens as the oldest of all Greek cities, and Thucydides referred to the inhabitants of Attica as the people who had always lived in that place. Pondering his future in Athens, Ion, the hero of Euripides's namesake tragedy staged about 414, declared that "it is said that the famous Athenians are natives of the land (*tas autochthonas*), not a foreign race," and revealed the hesitancy of a child of a mixed marriage to go to Athens because it was a "pure city" (*katharan polin*). Ion's doubts were anticipated a little earlier in the play by the words of his mother, Creusa, the daughter of Erechtheus, that Xythus, her husband and Ion's father, was "not *astos* but a foreigner from another land." Praxithea, a character in another of Euripides's tragedies, *Erechtheus*, reflected the Athenians' pride by referring to them as "born from this very soil" and by juxtaposing Athens with other cities which, she claimed, were populated by immigrants.¹

Euripides's contemporaries dated the Athenians' local origins, and therefore kinship, to the period before Ion, who, they believed, even predated Theseus. Outsiders in the time of Euripides and later, however, could create a connection to the Athenian kinship community through marriage and could produce legitimate children who acquired its membership, as we shall see below. Kinship and

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legitimacy went hand in hand, forming the community that we find in sources from the late archaic and classical periods. Evidence for the composition and principles of the organization of the Athenian kinship community, and its special place among the entire population of the city of Athens, will be synchronically examined in chapter 1. The next chapter will reevaluate its development in a diachronic fashion, with the aim of ascertaining the reasons for and consequences of Solon's reform of the kinship community. It will also focus on the impact of his reforms on the interactions between the kinship community and the rest of the population of Athens.

1 The Athenian kinsmen

An individual's position in the city was determined by his origin, which largely depended on the type of marriage, if any, into which he or she was born. It is not surprising that Alick R. W. Harrison began his book – which is still the most comprehensive work in English on the legal history of ancient Athens – with family and marriage (1968, 1–60). Although briefly noting that there was more than one type of marriage in ancient Athens, he established no connection between types of marriage and social groups. Modern studies likewise typically approach marriage in ancient Greece in general terms. However, social groups among the free population in ancient Athens differed depending on the birth-related status – and, accordingly, the rights and privileges – of their members. Members of the kinship community occupied a very special place in Athens and, as far as much more limited evidence allows us to see, other ancient Greek cities. The first part of this chapter will deal with the social fabric and membership principles of Athens' kinship organization, while the second part will focus on how this organization functioned, including its major divisions, officials, and regulations.

1. The *astoi* and the *gnesioi*

Among the different segments of free population in ancient Athens, our sources allocate a very special place to the *astoi*, as in the words of Euripides' Creusa quoted above. Modern studies have generally either defined them as citizens, thus connecting their status with local residence and holding the *astoi* as “native citizens” or “full residents” – in contrast with those whose residency in the city was recent or temporary² – or stressed not only the geographical affiliation of the *astoi* but also their lineage by associating them with the aristocratic class.³ However, the doctrine of autochthony, which did not develop until the fifth century, does not explain the special position of the *astoi* in the preceding period. The *astoi* cannot be identified as only local residents in the classical period either, because neither Athenian metics nor (all of) *politai*, both of whom were permanent residents (see chapter 3 for more on *politai*), were counted among the *astoi*.⁴ In spite of their inadequate character, the two theories help us to highlight the typical features of the *astoi* – the connection between their status and local residency on the one hand, and ancestry and lineage on the other. Local residency probably

distinguished the *astoi* during the early period of the history of Athens, but what separated them from the rest of the city's population in the late archaic and classical periods was the idea of their common descent.⁵

The birth-related status of the *astoi* is revealed by the fact that they could contract a marriage with a surety: the term for this was *engye*, or *engyesis*.⁶ In matrimonial agreements, this word has generally and conveniently – but not wholly adequately, it should be admitted – been translated as “betrothal.”⁷ The *engyetic* marriage in Athens was initiated when the woman's guardian (*kyrios*) – who was either her father or a member of her paternal kin⁸ – made a promise, in the form of an *engye*, to her prospective husband (see esp. Cantarella 1964, 134–137). The woman who married in this fashion was typically referred to as an *aste* and betrothed wife. The standard reference to her was *aste kai engyete*, or *gamete*, *gyne*. Husbands used this phrase to confirm the status of their sons as legitimate (*gnesioi*) children: the father referred to his son as having been born by an *aste kai engyete* wife when he introduced the boy in his *genos* and *phratry*, i.e., kinship organizations, as we shall see in more detail below.⁹ Similar references served as typical proof of individual legitimate status ([Dem.] 48.53, Dem. 57.54, [Dem.] 59.58, 92, 106).

The fact that not all cases of *engye* ended in a marriage¹⁰ undermines the opinion of those who assert that an *engye* legally sanctioned the marriage. They are mixing the *engye* and *ekdosis* (“giving out”) of the woman to her husband,¹¹ two distinct steps in arranging marriages in Athens (fig. 4B and 5).¹² Hence, the view developed that *engye* and marriage formed two parts of the “matrimonial



(A)



(B)

Figure 4 The Attic terracotta *loutrophoros* (a bathwater vessel) ca. 450–425 B.C. with images of the father, or *kyrios*, of the woman shaking hands with the groom, thus sealing a marriage agreement (Side A), and of the groom leading the bride away by the hand as a consequence of her being “given” to him (Side B).



Figure 5 The image of the wedding of Peleus and Thetis, the parents of Achilles, on this Attic terracotta red-figure *pyxis* (typically, a woman's cosmetic and/or jewelry box) attributed to the so-called Wedding Painter, from ca. 470–460 B.C., presents the groom leading away by the hand the bride who had been “given” to him.

structure” and that *engye* determined the legitimate status of children born in that marriage.¹³ This follows from one of the Athenian laws ascribed to Solon:

If a father or brother born of the same father or grandfather on the father's side betroths a woman on just terms (*hen an engyese epi dikairois*) as a wife (*damarta einai*), her children are legitimate (*ek tautes einai paidas gnesious*).¹⁴

How could a non-binding oral agreement determine their status? The guarantee, it appears, concerned the woman and the property she was carrying in the form of a dowry from her natal family to her marital family: the woman, and the property she brought to the marital household, could only be loaned to her husband.¹⁵ This usage of *engye* in marriage arrangements reflects an overall understanding of *engye* as an agreement between a creditor and a borrower, which included a pledge and an obligation.¹⁶ It is for this reason that “a woman’s property always remained separate from her husband’s *oikos*,” and if the marriage did not work and/or no children were born, the woman and the property returned to her natal family.¹⁷ Engyetic marriage, therefore, took the form of a loan, and the husband’s property served as the surety (*engye*) for the return of the dowry. This situation is well illustrated in Demosthenes’s speech against Onetor. After Demosthenes had won a judgment against his guardian Aphobus for defrauding him of a large part of his inheritance, Demosthenes had attempted to recuperate his loss by seizing a plot of land held by Aphobus, but was driven away from that land by Onetor. The latter claimed that Aphobus had divorced his sister and since Onetor could not receive her dowry back, he took possession of that land from Aphobus as security (*apotimema*).¹⁸

Engyetic marriage had several specific features that distinguished it from other forms of matrimonial unions available in the same city. One of them, noted above, was the use of a piece of immovable property as security for the dowry that the woman brought to the marital *oikos*.¹⁹ Only members of the kinship community had the right to possess immovable property by virtue of their origins in late archaic and classical Athens (see chapter 3).²⁰ This situation made it possible for some people who did not belong to Athenian *astoi* but who had obtained the right to possess immovable property in the city, or the right of *enktesis*, to also arrange engyetic marriages with *astai*. Thus, engyetic marriages were available not only to the *astoi* but also to those aliens who received the right of *enktesis*, either as an individual grant or as a component of a special privileged status, or *politeia*, which the Athenians used to reward certain aliens. The number of children born in such marriages in Athens is unknown, but there can be no doubt that they were acknowledged as legitimate, and joined the community of the *astoi*. Hence, although the ideology of the Athenian autochthony in the classical period presented the *astoi* as being of local origin, they were not a kinship community in the true sense of the word.²¹

Another distinguishing feature of engyetic marriages was that they were based on oral agreements, evidently because the origins of this type of marriage predated the emergence of written laws (see chapter 4). Oral marriage agreements survived into much later times, as we see in the play *Perikeiromene*, also known as *The Rape of the Lock*, authored by Menander probably in 314–313 B.C. Its main character, Glycera, lived with a hired soldier, Polemon, in Corinth. Once Polemon spotted her embracing a young man – who, in fact, turned out to be Glycera’s brother – he cut her hair (hence the title) in a fit of rage, after which Glycera left him. A heart-broken Polemon and a

certain Pataecus, who appeared to be Glycera's father, then had the following conversation:

PATAECUS: And if that thing that happened, Polemon, the one you talked about, happened to both of you, and your lawfully wedded wife (*gameten gynaika*) –

POLEMON: Do not say that, Pataecus.

PATAECUS: There is a difference, then.

POLEMON: I have regarded her as my lawfully wedded wife (*gameten*)!

PATAECUS: Do not shout. Who was the one who “gave” (*tis d'esth'ho dous*) [the bride]?

POLEMON: To me? She did.

PATAECUS: Just wonderful. Maybe it happened so that she liked you but not any more. She has left now that you do not treat her as you should.

POLEMON: What are you saying? Not as I should? This has brought me more pain than all other words.

PATAECUS: You are in love. I know this for sure. It is for this reason that what you do now makes no sense. For what is it about? Or who do you plan to drag? This woman is her own master (*heautes est'ekeine kyria*). What remains for an ill-disposed lover is to persuade.

After complications were successfully resolved and true identities established, and as the happy end of the play was fast approaching, the two men had a much more pleasant talk:

PATAECUS: Listen to what I want to say. I give her to you to plow legitimate children (*tauten gnesion paidon ep' arotoi soi didomi*).

POLEMON: I accept (*lambano*)!

PATAECUS: And three talents as a dowry.

POLEMON: And this I gladly take.

The two men then evidently shook hands, just like on the above image from an Attic *loutrophoros* (fig. 4A), to seal their agreement. The size of the dowry, eighteen thousand drachmas, appears to be quite large, at least by the estimates of the classical period, when the usual dowry is thought to have generally ranged from three to six thousand, even though it could go much higher in some cases.²² However, regardless of numbers, Pataecus pronounced what has been acknowledged as the standard formula of betrothal.²³ We also see it in other plays by Menander and other authors, in which *kyrioi* “gave” their wards for the purpose of “plowing legitimate children.”²⁴ A reference to “legitimate children” (on whom see below) indicates that Glycera was an *aste* and – from this moment on – a betrothed (*engyete*) wife. The “giving” of the bride was a separate and necessary component of a proper marriage. The Gortyn Law Code, dated roughly to the late sixth and early fifth century, refers to a similar situation on the island of Crete: only a woman “given” (in marriage) by her father or brother was counted as a lawful wife.²⁵

Since it was not based on a specific legal enactment, engyetic marriage was effectuated through several practical steps:²⁶ an oral agreement between the *kyrios* of the woman and her prospective husband, sealed with a handshake, and the act of “giving” the woman by her *kyrios* to the husband (see fig. 4 and 5); a preliminary marriage sacrifice and other religious ceremonies in the *genos* (Plato, *Lg.* 6, 774e–775a); a special marriage feast (*gamelia*) for members of the husband’s extended family (*syngenoi*) and phratry, i.e., a brotherhood of putative kin; the wedding procession to the groom’s house, with the bride often being carried on a chariot, as seen in the image on the cover of this book, and also in fig. 6 and 7; the commonly acknowledged fact of cohabitation (Isae. 6.14–15); and probably various other distinct attributes. For example, Solon allegedly required that brides carried the image of the vessel for roasting barley (*phrygetron*) at the marriage, evidently as a symbol of household duties.²⁷

One of the specific features of engyetic marriage was that an *aste* was supposed to have a *kyrios*, who was either her father or her closest remaining paternal male relative, in order to become a betrothed wife.²⁸ Although many have already observed that “guardian” is not an adequate translation for *kyrios*, this word conveys a basic sense of the Greek original. The fact that only marriages of the *astai* required the presence of a *kyrios* has often been overlooked, creating the impression that every woman in ancient Athens, and many other places in Greece, was supposed to have a *kyrios*.²⁹ However, some women appear to have had no *kyrioi*. Thus, Apollodorus’s assertion that Neaera was not an *aste* included a reference to her as “her own *kyrios*.”³⁰ This was not a valid argument, however, because while only *astai* could have *kyrioi*, some *astai* appeared not to have them. A reference to one of the prostitutes in the play *Hydria* by the comic poet Antiphanes (fl. mid-fourth century B.C.) as an *aste* with no guardian and no kin effectively meant that she was her own *kyrios*.³¹ The above-quoted excerpt from Menander’s *Perikeiromene* illuminates this important problem by showing that Glycera was acting as her own *kyrios*, evidently because she lived as a concubine (*pallake*) of Polemon, although she was an *aste* (judging by her subsequent engyetic marriage) and her father and brother were still alive.³² Once a betrothal took place and her father “gave” her to Polemon (at the end of the play), Glycera ceased to act as her own *kyrios*.³³

In case the father died without leaving legitimate sons, the daughter became an *epikleros* (meaning “connected with the family estate,” *kleros*³⁴) – which is usually, though not adequately (as we shall see below), translated as “heiress” – and fell under the control of another *kyrios*. He would have been her nearest male relative on the father’s side, and he would take care of her together with the property. A law quoted in one of the speeches from the Demosthenic corpus required that heiresses (*epikleroi*) of the thetes class, which was formed of the poorest Athenians, either be married to the nearest of kin (*ho engytata genous*) or given by him in marriage with a dowry proportionate to the size of his wealth.³⁵ A similar conclusion follows from the words of the nephews of the



Figure 6 The Attic terracotta black-figure *lekythos* (an oil-storing vessel) attributed to the Amasis Painter, from ca. 550–530 B.C., depicts a wedding procession, with the bride being transported to the house of the groom, who is sitting next to her, as was typical of engytic marriages.



Figure 7 The Attic terracotta black-figure neck-amphora with lid and knob attributed to Exekias, from ca. 540 B.C., depicts a wedding procession that transports the bride to the house of the groom, who is standing next to her, as was typical of engyetic marriages.

late Cleonymus, who claimed his estate as his closest surviving relatives, in this excerpt from Isaeus:

If Polyarchus, the father of Cleonymus and our grandfather, were alive and lacked life's necessities, or Cleonymus had died leaving daughters in need, we would have been obliged by our kinship (*dia ten anchisteian*) to look after our grandfather in his old age and either to marry Cleonymus's daughters ourselves or to provide dowries and marry them to others. Kinship (*syngeneia*), the laws (*hoi nomoi*), and the shame we would feel before you would have obliged us to do this or else encounter the severest penalties and extreme disgrace.

If the deceased person had left more than one daughter, they were married in the order of their birth (the eldest daughter married first) and the lineal proximity of the husband (the eldest daughter married the closest agnate).³⁶ This type of marriage was known as *epidikasia* because the girl "inherited" (in legal terms, had adjudged to her: *epedikasato*) the property of her deceased father as his closest relative.³⁷ Although the girl was not "given" by her father as in *engyetic* marriage, modern studies traditionally put *epidikasia* together with *engye*,³⁸ while the requirement to have a *kyrios* shows that *epidikasia* was still a marriage reserved solely for the *astoi*.

The importance of *engyetic* marriage and of *epidikasia* – and, accordingly, their frequent mention in our sources, especially in forensic speeches of the fourth century – derived largely from the fact that they were the only ways to turn an *aste* into a betrothed wife (cf. Isae. 6.14) and, therefore, to produce legitimate children (*gnesioi*).³⁹ This follows from the Athenian law, ascribed to Solon, which is quoted in several ancient texts:

Legitimate children (*einai paidas gnesious*) are born from a woman whom a father or brother or grandfather has pledged in marriage (*hen an engyese*).

If a father or brother born of the same father or grandfather on the father's side betroths a woman on just terms (*hen an engyese epi dikaiois*) as a wife (*damarta einai*), her children are legitimate (*ek tautes einai paidas gnesious*).

Whomever a man lawfully gives in betrothal, children born of her are legitimate (*hoi ek ton engyeton gynaikon paides, houtoi gnesioi eisin*).⁴⁰

This situation and Hyperides's specific reference to "just betrothals" as those with the participation of the *kyrios* (*dikaia engyas kyrias*) and "unjust betrothals" (*me dikaia akyrous*) cast a new light on the meaning of Electra's words that the man who lived with her had never touched her in bed, because, as she explained to Orestes, he did not think that she had been given to him by her *kyrios* (Eur. *Electr.* 259: *ou kyrion ton donta m'hegetai*). Her homopatric brother, Orestes, took it as if the man was afraid of his punishment (260), evidently meaning that, after

their father had died, he was the *kyrios* of Electra, and not Aegisthus, who had “given” Electra in marriage (267: *dous*) although not being her paternal relative. This play, written in Athens around 420, shows that in the absence of engyetic marriage, having intercourse with Electra meant, first, that she was acknowledged as a concubine (*pallake*), which would have been an insult for a woman of her standing and, second, that no legitimate (*gnesioi*) children could be born, which is what Aegisthus planned when, according to Electra, he “gave” her to produce “weak children” (267: *tekein m'eboulet'asthenei*).⁴¹

The role of the *kyrios* was so important because only legitimate (*gnesioi*) sons, i.e., those born in engyetic marriage, had the right to inherit their late father's status and the patrimony, or the *patroia*, in equal shares.⁴² According to Greek tradition, which modern scholarship has generally accepted, Solon deprived children born outside of engyetic marriage, or bastards (*nothoi*), of the right of inheritance (*anchisteia*). Such children could expect to only get a fixed amount of money, or a *notheia*, from their fathers.⁴³ Likewise, if a daughter was the only legitimate child, she could be pronounced a successor by her father ([Dem.] 59.59–60), or else she became an heir (*epikleros*) once her father died and had to have a *kyrios* from among the closest of her paternal kinsmen, as noted above. Solon's law on *anchisteia* established the order of inheritance by kinship proximity, giving preference to males.⁴⁴ According to this law, if someone died intestate without children, his property went to the relatives in the nearest degree (*engytato tou teleutesantos to genos estin*) in the following order of preference: brother or half-brother by the same father, and his legitimate (*gnesioi*) descendants; sister or half-sister by the same father, and her legitimate descendants; other legitimate relatives on the father's side as far as children of first cousins. In their absence, the property passed to the relatives on the mother's side, according to the same degrees of proximity: half-brother by the same mother, and his legitimate descendants; half-sister by the same mother, and her legitimate descendants; other legitimate relatives on the mother's side as far as children of first cousins.⁴⁵ Besides being used to establish the order of inheritance, *anchisteia* also served the purpose of figuring out which of the relatives had the right to marry the heiress (*epikleros*), and which of the relatives participated in the prosecution of a murder: while Draco's laws required paying “blood money” (*hypo-phonia*) to the household (*oikos*) as a kinship group, prosecution for murder was to be undertaken by relatives within the degree of children of first cousins.⁴⁶ It appears, therefore, that Solon turned the already existing principle into a legal notion.⁴⁷

The right of inheritance belonged exclusively to *gnesioi*, which explains the comic situation in which Heracles, who was Zeus's bastard (*nothos*), found himself in Aristophanes's play *The Birds* (414 B.C.). It revealed that Solon's law was still in use:

[A] bastard (*nothos*) is to have no right of inheritance (*anchistheia*), if there be legitimate children (*paidon onton gnesion*). And if there be no legitimate children (*ean de paides me osi gnesioi*), the goods are to pass to the next of kin (*tois engytato genous*).⁴⁸

The prose citation suggests that Aristophanes quoted the original text of the law, whereas its alleged inconsistency could be explained by the play's comic nature.⁴⁹

Contrary to Heracles's expectations, the phrase "and if there be no legitimate children" (one expects a meaningful pause after this sentence) did not reflect that bastards could inherit but rather that the property then passed to the nearest legitimate kin – or to an adopted son, who had to belong to the *gnesioi* (see next chapter) – as Aristophanes's audience knew all too well. In the preceding lines of the play (*Av.* 1653–1654), the goddess Athena was pronounced to be the "heiress" (*epikleros*) because Heracles was a bastard (1650). Pisthetaerus then explained to Heracles that Athena could not have been called "heiress" if she had brothers who had the status of "legitimate children" (1654: *onton adelphon gnesion*), and that now Poseidon could lay claim to Zeus's inheritance, declaring himself to be Zeus's legitimately-born brother (1659: *adelphos gnesios*). The latter obviously reflected Solon's law, which, as we have seen above, established the order of inheritance for people who died intestate, by favoring male relatives and putting brothers first. The fact that the principle of *anchisteia* was used in inheritance cases illustrates that "heiress" is an inadequate translation for *epikleros* not only because, as has been the usual explanation, women could not own real property (it passed to their sons born in engyetic marriage), but also because in some cases, such as in Crete, a legitimate daughter was eligible to receive not only a dowry but also a part of the *patroia* even when one or more of her legitimate brothers were alive, whereas bastard daughters could receive a bastard portion, or *notheia*, from the property of their fathers.⁵⁰

Some have reinterpreted the position of the *gnesioi*, however, by either dissociating their status from kinship connections or rejecting the idea that the *gnesioi* had to be born in (engyetic) marriage. Daniel Ogden, who most visibly represents the first group, based this conclusion on the two above-quoted excerpts from the Demosthenic corpus.⁵¹ The meaning of the word *gnesios* seems to have, indeed, evolved to mean "legitimacy," like in the case of children born in an engyetic marriage between Athenian *astai* and *politai* "by decree," who did not belong to the kinship community but had the right to possess immovable property. Such children counted as *gnesioi* in spite of the alien origin of their fathers. However, we do not know exactly when this situation emerged; it is possible that this development did not start until after the sixth century. And the importance of kinship relations looks obvious, because *gnesioi* were born only from the *astai*, only in engyetic marriage that was reserved for the *astoi* by virtue of their origins, and only with the consent of the woman's *kyrios*, who was her father or her closest paternal relative.⁵²

The second group consists of those who believe that if both parents were *astoi*, they did not have to be legally married to produce legitimate (*gnesioi*) children. It appears that the only basis for this view has been the famous passage from the *Athenian Constitution* (*Ath. Pol.* 42.1) that "*politeia* belongs to those who are *astoi* on both sides, and they are registered on the rolls of their demes at the age of eighteen."⁵³ Among others, Douglas M. MacDowell noted that "there is no mention of the parents' marriage, and in a formal definition this silence must be significant." However, Arnold W. Gomme had long ago commented that "a citizen must not only be a free man, but both his parents must be citizens, and they must be legally married." Directly responding to MacDowell, Peter J. Rhodes has observed that "*Ath. Pol.*'s silence, even in such a passage as 42.1, is an insecure basis for argument." Indeed, references to marriage were also neglected in

descriptions of Pericles's "citizenship law," although no one denies that it implied children being born in a legal marriage (Arist. *Ath. Pol.* 26.3; see chapter 5). The debate has continued, however. And, while concluding that this "question must remain open," Raphael Sealey, Christopher Carey, and Monica Bertazzoli offered their support to MacDowell's view.⁵⁴

The evidence presented above about Solon's definition of legitimate children and about the role of *kyrioi* confirms that marriage was necessary for producing legitimate children.⁵⁵ It is true that the translation "legitimate (children)" does not adequately render the meaning of the Greek word *gnesioi*, because the marriage that produced the *gnesioi* was not defined by the law of the city but by the oral customs of the kinship community. For this reason, as many have noted, ancient Greeks had neither a single legal concept for marriage nor – and this has caused an even more heated debate – a clear definition for adultery.⁵⁶ However, regardless of whether one thinks of this type of union as "legal" in strict terms of city laws, engytic marriage was necessary for producing legitimate children because, first and foremost, children could also be born to unmarried *astai* who were prostitutes or concubines.⁵⁷ Such children were not considered legitimate; they were bastards (*nothoi*).⁵⁸ This was Isaeus's argument in the speech on the estate of a certain late Pyrrhus, which was being contested between Pyrrhus's sister and his allegedly legitimate daughter Phile, a niece of a certain Nicodemus. The prosecutor – the sister's only surviving son – asserted that it had been within Pyrrhus's power, "if he had married (*en engyemenos*) the sister of Nicodemus, to introduce the child to the members of his phratry (*eis tous phratoras*) as his legitimate offspring (*hos ousan gnesian heauto*), and leave her sole heiress to all his estate."⁵⁹ At the same time, the speaker also referred (3.39) to those who "give their womenfolk (*tas heauton*) to others in concubinage (*epi pallakia*)" and mentioned cases in which a daughter born by a betrothed wife (*ek tes engyetes*) was married in the status of a child of a *hetaira*, supposedly to reduce the amount of dowry (3.45–51) and/or to avoid the possibility of this woman's children inheriting their grandfather's estate (3.50, 55). The speaker inferred that even if Phile was a legitimate daughter, she had not been married as a lawful wife but as a child of a *hetaira*, meaning that her children had no right to the estate of their grandfather.⁶⁰

Situations in which an *aste* lived as a mistress (*hetaira*)⁶¹ or a concubine (*pallake*) of an *astos* were quite widespread.⁶² We see them in the words of Isaeus (e.g., 3.45–47, 51), in occasional references including the words of Diogenes Laertius (5.76, supposedly relying on Favorinus) that Demetrius of Phalerum cohabitated with Lamia, an *aste* from a noble family (*astei kai eugenei synoikei Lamiai*), and in the status of female characters in Greek comedies (like Glycera from the above-mentioned *Perikeiromene* by Menander) and in the Latin plays that derived from Greek prototypes, such as Antiphila in Terence's *Heautontimoroumenos* and Silenium in Plautus's *Cistellaria*.⁶³ At least some of the girls whose fathers were not able to provide them with dowries, as, for example, in the case of debtors to the state, also found themselves in this situation.⁶⁴ There is really no valid reason to follow the view that rejects this possibility by claiming that the life of a concubine would have deprived an "Athenian citizen woman"

of her status. The cases of Electra, Glycera, and other women show that public opinion made a distinction between concubines and prostitutes and that, even if tarnished by concubinage, the status of such women could still be restored through engyetic marriage.⁶⁵

Both engyetic marriage and some cases of concubinage were arranged in the form of agreements with the woman's father or other relative(s) representing her side.⁶⁶ Situations involving amounts of money agreed upon in advance and to be allotted to the concubines appear to have been quite common (e.g., Isae. 3.39). Since agreements on giving daughters and other female relatives in concubinage set a price for the maintenance of the women, they probably prompted a special regulation, which Plutarch ascribed to Solon and interpreted as prohibiting Athenians from selling daughters and sisters, unless the man found that the woman was no longer a virgin. Some have accepted Plutarch's words at face value, thus provoking various reinterpretations of the relationship between the status of free people and slaves,⁶⁷ whereas the presence of a price was the possible reason why Cohen counted such concubines among prostitutes.⁶⁸ However, while these two groups overlapped, and continue to overlap from today's point of view (some might interpret a "short-term paid marriage" as a form of prostitution), Solon's law evidently applied to special arrangements effectuated by Athenian families for their female members, especially those who had forsaken their virginity. Since some *pallakai* were protected by agreements that their families had arranged, the identification of *pallakai* and prostitutes as one social group in Athens appears to be unfounded. Likewise, Menander's reference (*Perikeir.* 130–131) that Glycera's foster mother gave her to Polemon as her daughter to have (*ekhein*) is no indication that Glycera was Polemon's property: after all, Glycera was her own *kyrios*, as we have seen above. However, despite this difference in the women's status, the status of children born by concubines and prostitutes was similar: since such children were born outside of engyetic marriage, they were all acknowledged to be bastards.⁶⁹

Because non-*astai*, like Neaerea, could not arrange an engyetic marriage, their most viable options were to become concubines or prostitutes, whereas the *astai* had the option of arranging an engyetic marriage or working as prostitutes or living in cohabitation. The latter *astai* either gave themselves as their own *kyrioi*, as did Menander's Glycera and an unnamed prostitute in the above-quoted passage from Antiphanes's *Hydria*, or they were given in concubinage (*epi pallakia*) by their families, as in Isaeus (3.39). Joseph M. Modrzejewski and Edward M. Harris perceptively juxtaposed such women with those who were given by their fathers, or paternal kinsmen, in marriage by betrothal.⁷⁰ As far as we can see from the law ascribed to Solon, the difference was that a woman married with a betrothal produced legitimate children, whereas a concubine's children only counted as free (Dem. 23.53; see appendix 2) if she was a free woman. Regardless of whether a concubine was a free *aste* or a slave, her children counted as bastards, precisely because they were born outside of engyetic marriage.⁷¹ This explains Electra's situation in the above-mentioned excerpt from Euripides: while her birth-related status was the same, she was not able to produce legitimate children because she had not been "given" by her *kyrios* and, therefore, did not live in engyetic

marriage. Both the status of the woman and the type of a union in which her child was born determined the status of the child.

A similar conclusion follows from the famous and often cited passage in the speech against Neaera:

We have mistresses (*hetairas*) for the sake of pleasure, concubines (*pallakas*) for meeting our bodily needs day-by-day, but wives (*gynaikas*) for having legitimate children (*tou paidopoieisthai gnesios*) and to be trustworthy guardians of our households.

The *astai* could live as mistresses, concubines, and wives. But it was only in the last capacity that they produced children (*paidopoieisthai*) who were acknowledged as legitimate. The same speech referred to Phrastor's *gennetai*, i.e., members of his clan, who refused to put his child on the *genos*'s registers and challenged him to swear that the boy was his own son "born by an *aste* who had been betrothed to him in accordance with the law" (*ex astes gynaikos kai engyetes kata ton nomon*).⁷² Other texts lead to the same conclusion: Isaeus mentioned a father swearing that the children he was introducing into his phratry had been born of an *aste* and betrothed wife (*ex astes kai engyetes gynaikos*); Hyperides acknowledged that "whomever any man has lawfully betrothed as wife (*ek ton engyeton gynaikon*), her children shall be legitimate (*gnesiōi*)"; and Pollux defined a legitimate child as one born by an *aste* in engyetic marriage (*gnēsios men ho ek gynaikos astes kai gametes*).⁷³ Legitimate children could only be born to *astoi* in engyetic marriage. Therefore, although Polemon and Glycera – the main characters of Menander's *Perikeiromene* – were *astoi*, they could not produce legitimate children before arranging an engyetic marriage, that is before Glycera's betrothal, which happened at the end of the play.

This situation explains a very curious piece of evidence about Socrates's personal life, which we find in several texts. *The Life of Socrates* by Diogenes Laertius supplies the opinions of Satyrus and Hieronymus of Rhodes that Socrates – and, presumably, some other Athenians – lived with two women at the same time because, due to the "scarcity of population" in the late fifth century, the Athenians had decreed that men could not only marry (*gamein*) an *aste* but could also "produce children" (*paidopoieisthai*) "by another," i.e., another *aste*, as some have correctly clarified.⁷⁴ According to Aristoxenus (whose text survived in renditions of Cyril and Theodoretus) and Tzetzes, Xanthippe was a *politis* and Socrates's concubine, whereas Myrto, the widowed daughter of Aristides, was Socrates's betrothed wife.⁷⁵ Daniel Ogden's detailed discussion of this situation (and of the corresponding historiography) presented it as "the bigamy concession of c.413" and interpreted it as a break from "Solonian bastardy legislation" in the sense that "some children that would have been *nothos* inasmuch as born of a concubine would no longer be such."⁷⁶ However, this definition is a misnomer: even if the story that Socrates simultaneously lived with two *astai* was an invention, the expression *paidopoieisthai* echoes the formula in the above-quoted excerpt from [Dem.] 59.122, and the purpose of the decree mentioned by Diogenes was to

specifically acknowledge children born by unbetrothed *astai* as *gnesioi*, because in normal circumstances only a woman who was both an *aste* and a betrothed wife could produce legitimate children.⁷⁷

This situation also explains why, as we have seen above, an *engyete* woman had to have a *kyrios* from among her kin. His responsibilities included either marrying her or making sure she was married to someone else with a betrothal. The importance of the *kyrios* was derived not only from the fact that a betrothal was necessary for arranging engyetic marriages and, therefore, producing legitimate children. It was also important because only a betrothal led to the transfer of property that belonged to an individual household (*oikos*) and, on a higher level, to the kinship community as a whole. In addition, in some cases – like the death of the husband or a dissolved marriage, and/or the lack of children – the property, and the woman, returned to the original *oikos*. In such situations, the *kyrios* was also responsible to recovering the dowry once the marriage ended, and for having the woman remarried, with the dowry, to another person.⁷⁸ This implied that the *kyrios* also received security for the dowry that the woman brought to the marital *oikos*.

The status of this property, which was secured by *apotimema* (as we have seen above), explains both why the husband, although he became the new *kyrios* of the woman, had no right to her property and why, as many have noted, the woman's separation from her natal family never became complete.⁷⁹ Pericles was said to have married his *aste* wife (having secured her consent) to another person before establishing a permanent cohabitation with Aspasia. Another husband who made a similar arrangement was Protomachus: having divorced Nicarete, he married her to Thucritus with her brother's consent – "at the hands of her brother," according to Demosthenes – since her father had died. Once on his deathbed, Demosthenes's own father gave his daughter in engyetic marriage (*gynaik' auto tauten engyon*) to Demophon with a dowry of two talents, and betrothed his wife, the mother of the orator, to Aphodus (*touto ten t'emen meter' engyon*), with a hefty portion of eighty minae.⁸⁰ While these facts have long been known, they were interpreted in a general sense as applying to the entire population of Athens; however, they only pertained to the Athenian kinship community. Plutarch (*Sol.* 20.7) implied a similar situation when he described how the mother of Dionysius, the tyrant of Syracuse, asked him to give her in marriage to one of the citizens.

The exclusive status of the *astoi* is demonstrated by the presence of more than one type of marriage in Athens and other ancient Greek cities.⁸¹ Besides the engyetic marriage of the *astoi*, Athens also granted the right of marriage, or the *epigamia*, to aliens. This right has been interpreted as establishing a form of association with "citizens" – either through a "legal cohabitation" with "citizens" (Thalheim) or via a "legally acknowledged marriage which produced legitimate children with citizenship" (Rhodes, Ogden).⁸² It is true, of course, that *epigamia* was a legal marriage.⁸³ However, the same can be said about any marriage, as opposed to cohabitation, and, as we have seen above, even cohabitation could be based on a contract and, thus, take a legal form.

Some have interpreted *epigamia* as a form of marriage between aliens and "citizens" that produced legitimate children. However, while the matter is that

epigamia indeed was a form of marriage recognized in the city, it was reserved for non-*astoi* and it did not produce legitimate children. The co-existence of different forms of marriage has often been passed over by those who only either referred to “legal marriage” in general as the prerogative of “citizens”⁸⁴ or only focused on one type of marriage. For example, Justus Lipsius spoke of a “legal marriage” which, in his opinion, could only be arranged between two Attic citizens. Therefore, he marked grants of *epigamia* as “exceptions.” Conversely, Walther Kolbe put engyetic marriage and *epigamia* together by insisting that they could only be granted to those who did not belong to “citizens.” If that is true, then what was the difference between these types of marriage? More recently, Christopher Carey has pointed to the prohibition “for an alien of either sex to contract a formal marriage with an Athenian.”⁸⁵ This is doubtful, however, because an alien and a “citizen” could not contract a “formal marriage” if engyetic marriage was only for the *astoi*, and aliens had no legal status in Athens. Others speak of “legal marriage” in ancient Greece in similarly general terms, focusing either on *epigamia* or on engyetic marriage. In the former case, Georg Busolt and Angelos Chaniotis have explained *epigamia* as a legal marriage arrangement between “citizens” of two cities that have concluded a corresponding treaty-based agreement to that effect, whereas Daniel Ogden has defined *epigamia* as “the right to marry citizen women and beget heirs that were citizens.” Still others – including Eva Cantarella, Alberto Maffi, and Paul Vernant – focused only on engyetic marriage, making no mention of *epigamia*.⁸⁶

The co-existence of different forms of marriage and forms of cohabitation undermines the vision of the free population of ancient Athens and other Greek cities as consisting of only “citizens” and “non-citizens.” The type of marriage or cohabitation depended on the social status of the involved parties and, first and foremost, on whether they belonged to the *astoi*. *Epigamia* was intended for unions that involved non-*astoi*, and it could not produce legitimate children. The earliest documented references to grants of *epigamia* belong to the fifth century. At the end of that century – probably soon after the tyranny of the Thirty had been overthrown – Lysias (34.3) spoke of the Athenian grant of *epigamia* to the Euboeans, whereas Isocrates’s *Plataicus* (14.51) referred to the Athenian grant of intermarriage to the Plataeans in 427 as *epigamia* (see page 288, n. 16). Some have rejected Demosthenes’s words (18.91) about the decree of Byzantium and Perinthus as granting *epigamia*, *politeia*, and several other privileges to the Athenians, because it is thought to be unusual that two cities gave this type of a grant at the same time and because, according to Polybius (18.2.4), Perinthus and Byzantium did not establish a “common *politeia*” (*sympoliteia*) until the late third century.⁸⁷ However, we do not know the exact relationship between Byzantium and Perinthus at the time this alleged grant took place: Polybius only says that Philip V was requested to allow the Perinthians to resume their *sympoliteia* with Byzantium, implying that they had had it in the past. More important, throughout Greece, we find different types of marriage within the same cities. In Athens, engyetic marriages coexisted with the marriage by which Pasio – a *polites* “by decree” and, therefore, clearly not an *astos* (see chapter 3) – married his wife,

Archippe. After Pasio's death, and in accordance with his will, Archippe was married to Phormio, Pasio's most trusted associate. He married her "in accordance with the laws" ([Dem.] 36.32: *kata tous nomous*), but since they were not *astoi*, this neither was nor could it have been an engytic marriage.⁸⁸

The best-known example of this situation in sixth-century Athens is provided by the marriages of Pisistratus. Before marrying the daughter of Megacles (Hdt. 1.61.1–2), he is known to have arranged marriages with an Athenian woman, whose name did not survive and by whom he had Hippias and Hipparchus (Thuc. 6.55.1; Arist. *Ath. Pol.* 17.2), and with Timonassa of Argos, who bore him two more sons.⁸⁹ According to Thucydides, Pisistratus's children by his Athenian wife were legitimate (*gnesioi*), suggesting that his sons by Timonassa were considered bastards (*nothoi*) in Athens. Aristotle confirms this information by referring to the Athenian woman as Pisistratus's betrothed wife (*gamete*), whereas Herodotus (5.94.1) calls Hegesistratus, one of Pisistratus's sons by Timonassa, a bastard. While the sons of Timonassa lived with their maternal grandfather, Greek authors were certain to mention their status as bastards in Athens. Another famous tyrant, Dionysius I of Syracuse, found himself in a similar situation: after the death of his first wife, he was said to marry two women, allegedly on the same day. One was Aristomache, daughter of Hipparinus from Syracuse, and the other was Doris, daughter of Xenetus from Locri, who became the mother of Dionysius II.⁹⁰ The latter was a *nothos*, who, unlike the bastard sons of Pisistratus, succeeded to the rule of his father.

2. The functioning of the kinship community

The first part of this chapter focused on how engytic marriage combined principles of kinship and legitimacy as a result of Solon's reforms in the early sixth century. The way Solon organized engytic marriages was closely connected both with several of his specific laws – on heiresses, guardians, dowries, testaments, and adoptions (as will be examined in the next chapter) – and with the functioning of the Athenian kinship community as a whole, which will be examined below.

Organization

As noted in the introduction, the dominant opinion of recent studies has been to hold the original pre-historic social organizations in Attica as territorial and political entities that only gradually developed kinship characteristics. The transformation received no particular attention in these studies, probably because there is a lack of corresponding evidence. Regardless of how or exactly when the transformation occurred, there is a general consensus that late archaic and classical Athenian *gene*, phratries, and some other social organizations were kinship bodies. This follows, in particular, from Draco's homicide law dated to the late seventh century and reinscribed at the very end of the fifth century, which provides the earliest surviving inscriptional reference to Athenian phratries by declaring that the "right to pardon the convicted killer [fell] in succession to three

groups defined by increasing remoteness of kinship with the victim. The first group eligible to pardon the killer comprise[d] the victim's father, brothers, and sons. In the absence of these, the rights to pardon devolve[d] upon a second group, which include[d] all the victim's male relatives within the degree of children of first cousins. Finally, if the victim ha[d] no living kinsmen within this degree, ten members of the victim's phratry." As summed up by David D. Phillips, these three groups were "defined by increasing remoteness of kinship with the victim."⁹¹ It was only kinsmen – real (within the degree of children of first cousins, or within the *anchisteia*: for this concept, see above) or putative (members of the victim's phratry) – who decided the outcome of homicide cases, according to Draco's law. The same law was used in the fourth century, as demonstrated by the following excerpt from one of the speeches from the Demosthenic corpus:

Kinsmen within the circle of cousin's child and cousin are to make proclamation in the Agora against the killer. Cousins and children of cousins, sons-in-law, fathers-in-law, and phratry members are to join in the pursuit. And pardon is to be granted if the father is alive, or a brother or sons, all of them [in agreement] or else the one opposing is to prevail. And if none of these are alive, and the killer acted involuntarily, and the Fifty-One, the ephetes, decide that he killed involuntarily, then ten phratry members are to admit him if they give their consent.

This excerpt and the republished text of Draco's homicide law show that the phrateres were also engaged in prosecution, thus undermining the view that their role in homicide cases was limited to granting pardons.⁹² In addition, the phrateres were expected to participate in the wedding-feast (*gamelia*), a necessary part of engytic marriage, as noted above, and to introduce their *gnesioi* children in phratries so they could inherit the patrimony.⁹³ Registration in a phratry required a verification of the candidate's status as a *gnesios*, as amply illustrated by many of Isaeus's speeches. In one of them, the speech on the estate of the late Pyrrhus discussed above, the speaker expressed doubt about the status of Pyrrhus's daughter Phile by stating that if she had indeed been his legitimate daughter, Pyrrhus would have introduced her to the members of his phratry (*eis tous phratoras*) as his *gnesios* offspring and would have made her the sole heiress to his entire estate.⁹⁴ In another speech (Isae. 8.18–19), Ciron's grandchildren claimed his estate because their mother was his legitimate daughter (*gnesia*). They also asserted their own status as *gnesioi* by pointing out that their father married her by performing all necessary ceremonies and, when they were born, enrolled them in his phratry, swearing an oath "in accordance with existing laws" that they were born by an *aste* in engytic marriage. This passage once again confirms that the status of parents as *astoi* alone was not enough for producing *gnesioi* children: such children could be born only to two *astoi* in an engytic marriage. The claim that Athenian phratries embraced people with common ancestry and blood relations displayed itself in the yearly festival of Synoecia, "rites of the combined houses," the latter interpreted as "phratry lodges" by Robertson (1992, 32, 59, 67).

Elsewhere, Isaeus (12.7–9) mentioned the enrollment of a certain Euphiletos in one of the phratries as a proof of his legitimate birth: his father swore an oath “according to the existing laws” that Euphiletos was born by an *aste* in engytic marriage. We see a similar situation in Isaeus’s speech on the estate of Apollodorus, when the speaker refers to the law (*nomos*) that anyone who introduces a son, whether his own or adopted (on this, see the next chapter), into a *genos* and a phratry should swear a religious oath with his hand upon the sacrificial victims that this son was born by an *aste* in wedlock (*ex astes kai gegonota orthos*) and, therefore, that he was a *gnesios*.⁹⁵ Apollodorus’s speech against Neaera ([Dem.] 59.122) likewise points to the common practice of the introduction of children in the phratries of their fathers. This information corresponds with what we know from the so-called Demotionid decrees, which contained regulations on the organization and administration of one of the Athenian phratries. These inscriptions included a reference to the oath made by witnesses when someone was introducing a child to the phratry. Each witness swore that the child was his father’s own legitimate child born from a betrothed wife (*gnesion eg gametes*).⁹⁶ The importance of phratry membership derived from the fact that legitimacy and, accordingly, personal rights – including political rights in the case of adult males – were typically verified and confirmed with reference to phratry registers. Even if phratries served as the foundation of the Athenian political system before Cleisthenes established demes as the basic political units of Athens late in the sixth century,⁹⁷ they were kinship organizations before and after Cleisthenes: this is the reason that women of legitimate status could evidently be registered in at least some of the post-Cleisthenes’s phratries.⁹⁸

References to Attic *gene* in the classical period provide similar information. Those who wished to introduce new members had to make a sacred oath to the *gennetai* that the people whom they introduced were legitimate children, i.e., born of an *aste* in engytic marriage. The speech against Neaera tells us that, at the time of his illness, Phrastor sought to enroll the boy born by Phano into his *genos* ([Dem.] 59.57–60). Since she turned out to be a daughter of Neaera, not Stephanus, Phano could neither be counted as an *aste* and Phrastor’s *engyete* wife nor, accordingly, give birth to legitimate children. Phrastor evidently did not want to leave his property to his immediate relatives: *syngeneis* or *kleronomoi*. His rationale was that once the boy’s status as a legitimate child (*gnesios*) was confirmed by enrolling him into his father’s *genos*, he could inherit the patrimony after Phrastor’s death. The *gennetai* refused to accept the child. Being brought before the court by him, they challenged Phrastor to swear that he verily believed the boy to be his own son, born of an *aste* in engytic marriage (*ex astes gynaikos kai engyetes*) or, in other words, that the boy was indeed a *gnesios*. Phrastor refused, and the boy failed to be enrolled,⁹⁹ thus confirming that *genos* was a division of the Athenian kinship organization.

The modern view is that the original meaning of the word *genos* as a priestly family gave way to the understanding of *genos* as a kinship organization during the period from the fifth to the fourth century, and that this new meaning was then projected into the past.¹⁰⁰ Regardless of this alleged transformation, religious

activities of the *gennetai* likewise point to *gene* as kinship organizations in late archaic and classical Athens. Individual *gene* monopolized the priesthoods of Athenian public cults, acting as religious corporations,¹⁰¹ whereas the right to use “ancestral tombs,” which all the *gennetai* commonly shared, similarly points to the *gene* as kinship organizations (Dem. 57.28; Isae. 6.64–65).¹⁰² The only proof of Tisandros’s noble origins that Herodotus (5.66.1) needed to point to was that his clansmen (*syngeneis*) had a common cult, sacrificing to Zeus of Caria. One of the three reasons why a cadet, an ephebe, could absent himself from military service was when he obtained the position of a priest,¹⁰³ the other two being when he inherited an estate (*kleros*) and married an heiress (*epikleros*): all three activities pertained to the functioning of the kinship community. When the Plataeans received the status of *politai* in Athens in 427, they were expressly denied the right to occupy any religious office that belonged to a particular *genos*, although their descendants would have this right, provided they were born in a marriage with an *aste* and *engyete* wife, i.e., if they were *gnesioi*.¹⁰⁴ Membership in a *genos*, including participation in its religious cult, was thus determined by one’s birth in engyetic marriage or, in other words, by the status of a legitimate child.

Both *gene* and phratries remained kinship organizations throughout the sixth century: neither Draco nor Solon changed their nature, whereas Cleisthenes was said to have preserved them “according to the ancestral custom.”¹⁰⁵ However, while no definitive evidence exists that non-kinsmen ever made their way into *gene*,¹⁰⁶ the situation with phratries does not appear to have been as straightforward. Thus, Philochorus referred to an Athenian law that “members of phratries should accept both *orgeones* and *homogalaktes*, whom we call ‘kinsmen’ (*gennetai*).”¹⁰⁷ The law has been dated to either the early sixth century (the time of Solon), the mid-sixth century (the time of the Pisistratids), the late sixth century (the time of Cleisthenes), or the mid-fifth century (the time of Pericles).¹⁰⁸ The uncertainty with the dating of the law has led to diverse interpretations of the social groups mentioned by Philochorus and of the relationship between *gennetai* and *homogalaktes* on the one hand, and between *gennetai* and *orgeones* on the other.

The majority opinion has been that “whom we call *gennetai*” was Philochorus’s own gloss, suggesting that the words *homogalaktes* and *gennetai* referred to the same social group but that they were in use at different periods of time.¹⁰⁹ Philochorus’s phrase is reminiscent of Aristotle’s association of *homogalaktes* with *komai* early in the Athenian history. Reflecting this situation, Félix Bourriot proposed that there were two types of communities in archaic Athens: a “priestly family” (“*la famille sacerdotale*”) or *genos*, which was comprised of the *gennetai*, and an “old rural community” (“*la vieille communauté rurale*”) or *kome*, which was comprised of *homogalaktes*. In his opinion, by the time of Philochorus’s writings, the words *genos* and *gennetai* had extended to designate both communities, thus leading to the creation of a new type of *genos* in about the fourth century.¹¹⁰ Other interpretations have been advanced as well. Margherita Guarducci and William S. Ferguson set *homogalaktes*, or *gennetai*, apart from *orgeones* on the basis of the membership in the noble class. However, Ferguson then expressed the view

that the basis for that division was wealth. Gaetano De Sanctis thought that the *gennetai* and *orgeones* were distinct with respect to the legitimacy of their origins. According to James H. Oliver, the people who were unable to equip themselves as hoplites and, consequently, to “be readmitted to the phratry as *gennetai*, who at that time were called *homogalaktes*,” had to be admitted “as *orgeones*.” Anthony Andrewes presented the *orgeones* and *gennetai* as members of the upper class, interpreting the former group as having some sort of religious function, whereas Félix Bourriot and, after him, Karl-Wilhelm Welwei rejected any inference to the aristocratic status of the *gennetai* in this passage, qualifying them as members of a religious organization known as *genos*.¹¹¹

We do not need to become involved in a critique of the theory of the aristocratic *genos* or in a discussion of the many critical evaluations of that critique here.¹¹² Suffice it to say that the post-Solonian *genos* was based on legitimate descent, regardless of the nobility of the *gennetai*. The theory of the religious nature of the Attic *genos* is actually of very little help either. This theory explains neither the reason for the emergence of *gene* as “priestly families” and their parallel existence with the kinship organization of the *homogalaktes* organized by *komai* at some time before the fourth century, nor the reason why it was *gene*, not *komai*, that were divisions of the kinship organization in the fourth century and later. Bourriot’s idea that *komai* and *gene* were two different types of kinship organization in ancient Athens seems too complicated.¹¹³ It is also noteworthy that Greek authors of the fourth century mentioned the *orgeones* side by side with the phrateres. A speech by Isaeus pointed to a situation when the adoptee was introduced to the phrateres, and then registered with the *demotai* and the *orgeones* of his adoptive father.¹¹⁴ Aristotle (*Eud.Eth.* 7.9.3, 1241b.25) presented phrateres and *orgeones* as different forms of partnership (*koinonia*), thus also making a distinction between the two groups. At a later date, the famous Roman lawyer Gaius (*fl.* second cent. A.D.) adduced the text mentioning phrateres alongside *orgeones*. It remains unclear whether it was he or the compilers of the Digest who tentatively identified it as one of Solon’s laws. It could be that Gaius used the text of the treatise about Solon’s *axones* by Seleucus of Alexandria, who listed a law on *orgeones* among Solon’s laws. But this, too, is far from certain: Gaius could have used a source, or sources, that shared the same view that had allegedly been expressed by Seleucus.¹¹⁵ Judging by what we know, Seleucus evidently interpreted *orgeones* as members of some religious organizations, while Isaeus, Aristotle, and Gaius mentioned them side by side with phrateres. However, we never encounter such side-by-side references to phrateres and *homogalaktes*. The lack of such references suggests that the two groups were probably comprised of the same people and, therefore, phrateres counted as kinsmen, which indirectly confirms the above-quoted statement by Philochorus that *gennetai* was just another word for *homogalaktes*.

The use of two words, *gennetai* and *homogalaktes*, for the same group of people might be explained by acknowledging that kinship could be established in more than one way. Thus, Miller (1953, 47) juxtaposed *gennetai* and *homogalaktes* as “terms signifying groups of paternal kinsmen by blood or social classification,

and groups of maternal kinsmen by blood or social classification,” respectively, and observed (53) that if “patriliny could be introduced in a single generation . . . then the men of that generation would be *homogalaktes*, but their sons would be *phrateres*.” If it was Solon who sanctioned the preference of male inheritance, then the legal division of kinsmen according to patriliny and matriliney emerged in the early sixth century.¹¹⁶ Ascribing the authorship of this system to Solon is supported by the traditional view that it was Solon who established the principle of the legitimacy of children.¹¹⁷ The legally sanctioned division into *gennetai* and *homogalaktes* thus emerged in the sixth century. If we accept this explanation for the distinction established between those two groups, and if we accept the historical validity of the Athenian law quoted by Philochorus, then *orgeones* only started to be admitted in phratries some time after Solon, most likely close to Philochorus’s own time. Neither his use of the antiquated concept of the *homogalaktes* nor the place where he mentioned that law in his text is enough of a valid argument for dating that law to the sixth or fifth century.¹¹⁸

Non-*gnesioi* had a chance of being enrolled in Athenian phratries, even though such evidence is limited and dated to after the sixth century. We know that a certain Euctemon wanted to enroll one of his sons – by Alce, allegedly a former slave woman who held the status of a metic at that time – into his phratry (Isae. 6.22–28). Euctemon’s request had been rejected on two grounds: he had legitimate (*gnesioi*) children from an *aste* and betrothed wife, and it was not clear if the person he wanted to enroll in his phratry was his own son. Euctemon’s main opponents were his *aste* and betrothed wife, and their legitimate (*gnesios*) son Philoctemon, who were undoubtedly concerned with the prospect of being deprived of control over Euctemon’s entire estate should Euctemon succeed in enrolling one more child. Euctemon then threatened to marry (*engyatai*) a sister of Democrates, from the deme of Aphidna – who was, evidently, an *aste* – and introduce any children born by her into the family (*eis ton oikon*). According to the orator, the problem was that Euctemon was too old to have children of his own, and, hence, his family was afraid that “serious quarrels would arise.” The real reason, however, was probably that since Athenian law allowed all the legitimate (*gnesioi*) sons to inherit the patrimony in equal shares,¹¹⁹ and since Euctemon threatened to introduce several sons instead of only one as he had originally planned, his *gnesios* son Philoctemon was destined to receive an even smaller share of the patrimony. Hence, after some consideration, an eventual settlement was reached – Alce’s son would inherit only one farm from his father’s property. At that point, Euctemon’s *gnesios* son lifted all objections and Euctemon finally succeeded in his task. It becomes clear, however, that this settlement did not turn Euctemon’s son by Alce into a legitimate (*gnesios*) son, and the orator was right to ask why Euctemon threatened to marry the sister of Democrates if his son by Alce, whom he wanted to introduce into the phratry, was a *gnesios*. It follows that Euctemon’s son by Alce was registered in the phratry even though he was not a *gnesios*, and the orator noted that Euctemon’s son was introduced on “special terms” (6.25: *epi retois*), alluding to the agreement that the boy receive only one farm, even though *gnesioi* sons were entitled to equal shares of the patrimony. The

one farm that Euctemon's bastard son received as a result of the settlement was a *notheia*, whereas his enrollment in Euctemon's phratry merely reflected his right to possess immovable property within the territory of the city.¹²⁰ A similar situation occurred when, according to Plutarch (*Per.* 37.5), a bastard son of the great Pericles was enrolled in the phratry of his father, after the *gnesioi* sons of Pericles had died, and he had to plead before the Athenians to have one of his remaining bastards acknowledged as his successor (see appendix 6).

It is worth noting that when phratries, and maybe even *gene*,¹²¹ accepted non-*gnesioi*, such people were still blood relatives of those who introduced them, although they did not necessarily count as legitimate descendants. The introduction of such people can, therefore, be interpreted as not so much a breach of Solon's law but rather as a reflection of pre-Solonian practices that made no distinction between legitimate and illegitimate children. However, Athenian phratries also admitted people with no kinship ties to the *astoi*. We see this in the above-quoted law preserved by Philochorus, whose date has been disputed, and also in fourth-century inscriptional texts which show that recipients of the Athenian *politeia*, who could not be members of the kinship community, still became enrolled in phratries. This probably happened because grants of Athenian *politeia* included the right to possess immovable property, or the right of *enktesis*, in the territory of Attica. The right of *enktesis*, which could also be awarded as a separate privilege, made its recipient a member of one of the Athenian phratries.¹²² Now that these people had immovable property and could use it as security (*engye*), they could arrange engyetic marriages with Athenian *astai* and produce legitimate children, who became full members of the Athenian kinship community.¹²³ Those who received the right of *enktesis* did not actually belong to the kinship community, however, nor did they count as *gnesioi*. The fact that more than just *gnesioi* were allowed to own real property in the city is probably reflected in [Dem.] 50.8, which referred to a special decision of the city council "on behalf of the *demotai*" about the advanced payment of taxes by "the *demotai* and those who owned property" (*ton te demoton kai ton enkektemenon*). The former group was comprised of male *astoi* who – after reaching the prescribed age for deme registration, in accordance with Cleisthenes's reform in Athens (see chapter 6) – held real property in the territory of the city by virtue of their legitimate origins in the same deme in which they were registered. The *enkektemenoi* were the *demotai* who held land in demes other than those in which they were registered (for this group, see page 250, n. 111), and, also, non-*gnesioi* who had immovable property through "special terms." The latter included Euctemon's son by Alce, and those people who had received the privilege to possess immovable property through the right of *enktesis*, either as a special privilege or as part of acquiring the status of *politai* in the city of Athens (see chapter 3).

In addition to the *gene* and phratries, four pre-Cleisthenic tribes (*phylai*) were likewise kinship organizations.¹²⁴ Each of them was named after one of the four sons of Ion,¹²⁵ thus claiming ties of common blood. Athenian phratries celebrated the festival of Apaturia, or Homopatoria (Ὁμοπατρία), i.e., "of the same father," as a later commentator on Aristophanes explained, while Herodotus observed,

“all Ionians who were of Athenian descent celebrated the festival of Apaturia.” By saying that Apaturia united fathers and relatives in family groups, Xenophon similarly confirmed the kinship nature it claimed. We also see this in the words of Andocides, who says that Callias repudiated a baby born to him by a woman whom he had put out of his house, when her relatives presented the child to him at Apaturia for enrollment. This moment was evidently the best occasion to publicly prove a kinship connection and legitimacy. Fathers enrolled their natural-born and adopted children in phratries at this time.¹²⁶ Many have noted that not all Ionians celebrated this festival. However, the fact remains that Athenian phratries and four pre-Cleisthenic tribes embraced the people who claimed common ancestry and patrilineal descent. The only visible change in the organization of the Athenian kinship community in the sixth century concerned the tribal organization: Cleisthenes replaced the four old kinship tribes with ten new territorial tribes, thus allowing non-*astoi* to have access to tribal membership starting in the late sixth century (see chapter 6). Prior to that moment, Attic *gene*, phratries, and tribes were only open to members of the Athenian kinship community.

Officials and regulations

As members of the kinship organization, the *astoi* also had their administration. Although typically presented as serving the entire city of Athens, the primary, if not the only, purpose of such officials and regulations was to take charge of the interests of the *astoi*. One Athenian official whose duties were most prominently concerned with the affairs of the kinship community, even long after the sixth century, was the *Basileus*, or the King (there are no parallels in ancient Greek texts to the frequent translation of his title as “king archon” in modern works). The King supervised ancestral sacrifices, adjudicated between *gene* and between priests, and examined claims to priestly positions disputed by the *gennetai*.¹²⁷ He conducted investigations and proceedings in connection with the death of the *gennetai* and also arbitrated their legal cases, whereas private lawsuits of non-*astoi* – the metics, *isoteloι*, and *proxenoi* – were the domain of the Polemarch.¹²⁸ In cases of murder, only relatives, that is members of the same household (*oikos*), and masters (if the murdered person was a slave and, thus, also a member of the *oikos*) could institute suits before the King as late as the fourth century ([Dem.] 47.70–71). They either accused a particular person before the King or made a general pronouncement against “the perpetrators and murderers.” This situation is illustrated well in one of the speeches from the Demosthenic corpus, which deals with the violent death of a former female slave, who at some point in time returned to live in the household of her former masters as a nurse. In the opinion of the *exegetai*, the interpreters of religious procedures and customary law, members of the household had no access to legal or ritual retribution in this case because the nurse was neither one of them – and, hence, the would-be avenger “lies outside the kin group entitled to seek vengeance under Draco’s laws” (Phillips) – nor their slave.¹²⁹ The King still dealt with cases of homicide in the late fourth century, thus retaining his status in the kinship community at

that time, although his functions were to a large extent ceremonial and the actual process was in the hands of the courts.¹³⁰ It is not surprising, then, that both he and his wife were expected to be legitimately born (*gnesioi*). Hence the indignation of the orator of the speech *Against Neaera*, who claimed that Phano – the woman Stephanus said was his legitimate daughter in arranging her marriage to a certain Theogenes, who held the office of the King – was, in fact, a daughter of an alien Neaera, whereas she had to be an *aste* by law.¹³¹ Stephanus, therefore, allegedly deceived Theogenes by marrying Phano to him as a legitimate daughter ([Dem.] 59.81: *gnesia*).

The King often performed some of his functions together with the four so-called *phylobasileis*, who have been identified as leaders of the four pre-Cleisthenic kinship tribes of Athens;¹³² they were probably counterparts to the *basileis* in Boeotian Thespieae, mentioned by Hesiod (*Op.* 27–39). The roots of this role fulfilled by the King and *phylobasileis* in the classical period have been traced to the period of Athenian monarchy, when the *Basileus* was actually the king of the city.¹³³ Regardless of whether this connection can be established, the fact remains that since the four tribes were kinship organizations before Cleisthenes reformed the Athenian tribal system in the late sixth century, the four *phylobasileis* dealt with the cases of the *astoi*.¹³⁴ The evidence that four *phylobasileis* still resided with the King in the Royal Stoa in much later times (Arist. fr. 385 = Poll. 8.111) suggests that they remained in charge of the kinship community long after the sixth century.

Another official, the eponymous archon, or the Archon, was responsible for heiresses and orphans – establishing guardians for them, punishing the ill-usage of heiresses, orphans, and parents, and supervising suits on inheritances and claims to heiresses, as well as leases of their estates.¹³⁵ This implied (though, not necessarily always) that he established degrees of kinship proximity (*anchisteia*) and received a piece of property as security (*apotimema*) for the lease of the estates of orphans (pupillary *apotimema*) and brides (dotal *apotimema*), thus acting similar to *kyrioi* in engytic marriages, as we have seen above.¹³⁶ It is not surprising, then, that the responsibilities of the Archon also included the supervision of marriages and divorces for the *astoi*, which concerned the transfer and upkeep of the property of their individual *oikoi*. Thus, the Archon was required by law to see to it that the *kyrios*, as the nearest paternal relative, either married an heiress or provided her with a dowry commensurate with the amount of his personal wealth:

In regard to all heiresses who are rated in the class of thetes (*ton epikleron osai thetikon telousin*), if the nearest relative in her kin circle (*ho engytata genous*) does not want to marry her, he is to give her away in marriage, with a dowry of five hundred drachmas if he is a *pentakosiomedimnos*, three hundred if a knight, and hundred and fifty if a *zeugites*; her personal belongings are additional [. . .] And if the nearest of her kin circle fails to marry or give her in marriage, the Archon is to compel him to marry her or give her in marriage.¹³⁷

If more than one person claimed to be the nearest relative of such a woman, she was adjudicated by the Archon according to the legal action called *epidikasia*,

which had the same legal effect as an *engye*, i.e., a privilege reserved exclusively for the *astoi*.¹³⁸ The Archon was also responsible for ensuring that legitimate (*gnesiai*) daughters of betrothed wives (*ek tes engyetes*) were not to be married in the quality of the child of a mistress (Isae. 3.45–47, 51), which evidently was quite a widespread phenomenon, as we saw in the first part of this chapter. When summed up, the evidence points to the Archon's ultimate task as having been to keep the *oikoi* of the *astoi* from being extinguished. A similar conclusion follows from Athenian law, ascribed to Solon, quoted in one of Isaeus's speeches as follows:

[T]he Archon is to take care of orphans, heiresses, households (*oikoi*) that are destitute of heirs, and all women who remain in the houses of their deceased husbands on the claim they are pregnant.¹³⁹

A part of the Archon's responsibility was supervising divorces, which also meant taking care of the *astai* and the preservation of kinsmen's households. An oration from the corpus of Andocides's speeches lambasted Alcibiades for first acquiring a larger dowry than any Greek ever had, and then behaving in such a shameful fashion that his wife, Hipparete, attempted to dissolve their marriage, presenting herself before the Archon. Demosthenes accused Onetor and Aphobus of not having registered the divorce of Onetor's sister and Aphobus with the Archon until Demosthenes himself had instituted a suit against Aphobus for abusing his position as guardian to Demosthenes during the orator's minority. Another such reference comes from the previously examined speech by Isaeus on the estate of the late Pyrrhus. Disputing the claims made by Nicodemus, Phile's uncle, that she was Pyrrhus's legitimate daughter (and, therefore, entitled to pass his property on to her legitimate sons), the orator questioned whether Nicodemus's sister was an *engyete* wife of Pyrrhus. As part of his argument, the speaker, the son of Pyrrhus's sister, addressed the jurors with the following words:

Will anyone attempt to persuade you that our uncle took this woman, who was available to anybody who wanted her, as his lawfully wedded (*engyete*)? But I do not think you'll believe it, unless he proves to you, as I said at the beginning of my speech, first, what the dowry was when, as he says, he betrothed (*engyesai*) his sister to Pyrrhus; second, before what Archon this lawfully wedded wife (*engyete gyne*) left her husband or his household (*oikon*); next, from whom he recovered her dowry when the man died to whom he says he betrothed her (*engyesai*)?¹⁴⁰

Such evidence shows that the King and the Archon continued to be in charge of members of the kinship community as late as the fourth century. The same can be suggested for several other Athenian officials with whom the King and the Archon closely cooperated, and about whom we have much more limited evidence. Such officials include the ephetes, who have been interpreted as the earliest homicide court in Athens.¹⁴¹ Both ancient and modern authors trace the establishment of the ephetes, who were presided over by the King, to Draco.¹⁴² The ephetes continued

to refer cases of homicide to the King as late as the end of the fourth century.¹⁴³ If the origins of the Areopagus Council predated Solon's reforms, which, according to modern studies, modified its form and responsibilities, then the Areopagites were also counted among the earliest Athenian officials and dealt with cases of homicide.¹⁴⁴ The words of Aristotle (*Ath. Pol.* 4.2) that generals and masters of the horse could only be people who had a certain amount of wealth and legitimate children over ten years of age who were born from bethroated wives (*paidas ek gametes gynaikos gnesious*) show that such officials, too, made up a part of the organization of the kinship community.

Even long after the sixth century, certain Athenian laws continued to be intended only for members of that community. Homicide trials were still conducted on the basis of the laws of Draco during the classical period. Whether his legislation was limited to homicide or whether only this part of Draco's laws was left intact, or almost intact, by Solon's subsequent overhaul of Athenian legislation is still up for debate.¹⁴⁵ Regardless of the outcome of that debate, the current examination is more interested in the social application of Draco's laws. According to Emily Grace (1973, 8), "in its original design the Draconian homicide law probably made no allowance for a variety of statuses in respect to either victim or killer." She interpreted the law of Draco as having been intended (originally) only for "citizens" (16–17). Yet, the origins of Athenian citizenship have been dated to Solon's reforms. Additionally, not all members of the kinship community had political rights or, using the modern concept, citizenship (see chapter 4). The lack of a "variety of statuses" in Draconian homicide legislation is better explained by the fact that this legislation concerned only members of the kinship community. This approach demystifies a situation that Félix Bourriot noted a long time ago: no fragments ascribed to Draco contain a reference to *genos*.¹⁴⁶

Several more observations can be added in support of the view that Draco's legislation was only intended for members of Athens' kinship community. As noted above, the King, together with the four *phylobasileis*, continued to supervise homicide cases of the *astoi*, even in much later times. This role of the King also revealed itself in connection with the republication of Draco's homicide laws at the very end of the fifth century. Although revisions of legal documents were often published under the name of the original lawgivers,¹⁴⁷ we can be fairly certain that the officials (*anagrapheis*) charged with the task of republishing Draco's homicide laws in 409–408 reproduced them without additions and modifications.¹⁴⁸ This conclusion follows from several pieces of evidence: a specific order that requested the *anagrapheis* to make an accurate transcription of the original Draconian law; the way the republished text of the law was divided; its archaic language; and the requirement – stipulated in the prescript to the republication (*IG I³ 104.5–6*) – that the *anagrapheis* take the text from the King. The latter official, therefore, served as the keeper of Draco's laws, which was quite appropriate provided he supervised the homicide trials of members of the kinship community.¹⁴⁹ A speech by Antiphon (6.38) refers to the King instructing Athenians on the basis of the homicide laws (clearly those by Draco) some time in the late fifth century.

The restricted character of Draco's homicide laws as having been intended only for members of the kinship community is similarly revealed by the above-mentioned case of the murder of the old nurse, who returned to live in the household of her former masters and happened to be killed while defending their property. The *exegetai* advised the members of the household neither to make a proclamation against anybody by name nor to file a suit with the King ([Dem.] 47.70). Establishing the status of that woman does not deserve the attention it received.¹⁵⁰ The only thing that mattered was that she did not belong to the household, either as a kinswoman of the head of the household or as his slave. Her case, therefore, offers another illustration that Draco's legislation and the responsibilities of the King were still only concerned with the interests of the *astoi* as members of the kinship community of Athens in the mid-fourth century.¹⁵¹

Conclusion

While the genesis of the Athenian kinship community continues to be debated, there is a general agreement that this community actually existed in the late archaic and classical periods. It had exclusive membership which was only open to the children born to its members, the *astoi*, joined in engyetic marriage – a peculiar kind of marriage which took the form of a loan through an oral agreement – as verified by religious oaths, and it had its own administration and legal system, comprised of officials and regulations intended only for the *astoi*.

Defining that community in strictly kinship terms would be a mistake, however: the idea that its members were related to each other by common ancestry and kinship was a later fiction.¹⁵² The notion of a kinship community should only be used as a convenient shorthand. In reality, its membership was based on combining the principles of kinship and legitimacy. On the one hand, the children born in engyetic marriages between Athenian *astai* and male *politai* “by decree” (such as the Plataeans and many others who received the *politeia* of Athens) were also counted as *gnesioi* and were given access to Athenian *gene*, even though their fathers did not belong to the *astoi* and, therefore, had no Athenian blood in their veins. In such cases *gnesioi* meant “legitimate” in purely legal terms. We do not know when this practice came into being: whether it was Solon who left this loop in the system which he himself established, or whether his system was modified at some later point in time. It might be that *politai* “by decree” received that privilege only after the sixth century. On the other hand, later in the fifth century, probably because of the hardships caused by the Peloponnesian War, there was a decree issued that allowed Athenians to take second wives, also from among the *astai*, whose children, although they were not born in engyetic marriage, were still acknowledged as *gnesioi*. Kinship lay at base of the status of such children; what defined their status, however, was a special decree that confirmed their legitimacy. Similarly, while a non-*gnesios*, or bastard, could secure a piece of his father's property as a “bastard's portion,” or *notheia*, bastards neither inherited equal shares of the patrimony like *gnesioi* sons nor (as far as we know) did they become members of the *gene* of their fathers. Hence, although legitimacy and kinship each played an

important role in the life of the kinship community, the former took precedence over the latter. In reality, Euripides's "pure city" of Athens was more of a legal convention than the kinship community which it claimed to be.¹⁵³

Solon organized the Athenian kinship community by introducing the principle of legitimacy and, thus, dividing all Athenians into legitimate (*gnesioi*) children and bastards. Only the former had the right of inheritance and, therefore, only they formed the *anchisteia*, even though bastards also belonged to the kinship group, or the *syngeneia*.¹⁵⁴ While all kinsmen continued to be members of individual households, only legitimate children had access to phratries and *gene*. Solon applied the principle of kinship legitimacy to the political and social status of the Athenians, defining the relationship between the public and private spheres. The law of the city determined the status of a member of the household, which entitled him to membership in the city's social and political organizations. The division between the *anchisteia* and the *syngeneia* was legal and was not based, as many have thought, on only kinship proximity.¹⁵⁵ The following chapter will reexamine Solon's reform of the kinship community in Athens.

Notes

- 1 Hdt. 1.2.5. Thuc. 1.2.5. Eur. *Ion* 589–590 and 673, respectively, with Zacharia (2003, 70–76). Creusa: 290. Eurip. *Erechth.* fr. 362.7–10 (N.) = 360.7–10 (K., with a reference to similar passages in other texts). See introduction. The survival and use of this *topos* in much later rhetorical tradition: John Doxapatres's *Homiliae in Aphthonium*, in Walz 2: 1839, 457.26–27. For later expressions of the idea of the Athenians being the only Greeks who were autochthonous, see Isocr. 4.24, 12.124–125; cf. Dem. 19.261: only the Athenians and the Arcadians.
- 2 E.g., Patterson (1990, 44, 1998, 109); Cohen (1997, 57–59, 2000a, 50–63); Lape (2004); Gagarin (2008, 125).
- 3 E.g., Roussel (1976, 71); Fouchard (1997, 54–55). The unity of the *astoi* as based on their common origin: Lévy (1985, 56–57); Vêrilhac and Vial (1998, 377).
- 4 For juxtaposing *astoi* and metics, see Whitehead (1977, 60–61, 1991, 137), with Lévy (1985, 57, 1988, 47–67).
- 5 The position of the *astoi* as connected with their hereditary status and the right of birth: Lévy (1985, 56–61); Oliveira Gomes (2007, 88–89). On juxtaposing *astoi* and *politai*, and suggested opinions on the meanings of these words, see page 127, nn. 148–151 and pages 160–161, nn. 63–72.
- 6 This privilege of the *astoi*: Bickerman (1975, 16, 19, 26). Such unions as the "legitimate marriages" of citizens: Omitowaju (2002, 204). This surety: Isae. 3.52–53, 6.14; Dem. 24.144, 33.22, 25, 43.54, 46.14, 57.43; Poll. 8.33; *Etym. Magn.* s.v. ἐγγύη. The eventual extension of this right to those who received the *politeia* of Athens: chapter 3.
- 7 E.g., Lipsius (1905–15, 468–475) (with notes), 705–706, 934 n. 17; Patsch (1909, 249–253); Wolff (1944, 51–52); Paoli (1962, 65–67); Lacey (1968, 143); Karnezis (1972, 208); Hunter (1993, 108, 1994, 15–16); Sealey (1994, 77–78); Vêrilhac and Vial (1998, 231–232); Cudjoe (2005, 55). On *engye* as "engagement": Phillips (2013, 138).
- 8 E.g., [Dem.] 43.51, 54, and [Dem.] 46.18 (see n. 14 below); Hyper. 3.16; Pl. *Lg.* 6, 774e. See Ledl (1909, 11–12); Erdmann (1934, 225–231, 323–325); Wolff (1944, 46–51); Harrison (1968, 48) (with n. 3); Carlier (1992, 115).
- 9 E.g., [Dem.] 59.59–60; Isae. 7.15–16, 8.19. On *gamete* as a synonym for *engyete*: e.g., Arist. *Ath. Pol.* 4.2 and 17.2 (concerning the Athenian wife of Pisistratus; see n. 89 below); Men. *Perikeir.* 486–498 and Poll. 3.21 (see nn. 73 and 22 below,

- respectively); and Guarducci (1937, 18 n. 4); Vernant (1988, 55); Mossé (1991, 279); Karabélias (2002, 138) (with bibliography); Ste. Croix (2004, 235). Pace Bickerman (1975, 20 n. 96); Sealey (1984, 122), who took both words as technical terms (“the children of *gametai* were a larger class, comprising the children of *engyetai* and some others”), although *gamete* appears to have been a colloquialism of a general nature.
- 10 See esp. Bickerman (1975, 11), with nn. 49–51. Cf. Kapparis (1999, 12, 14–15): on *engye* (and *epidikasia*: see below) as indispensable for lawful marriage but not sufficient to complete the marriage, and n. 16 below.
 - 11 For example, Leduc (1982, 13, 14, 23); Mossé (1983, 51); Just (1989, 71); Patterson (1990, 72); Scafuro (1994, 167) (“legally sanctioned marriage effected through *engye*”); Vérilhac and Vial (1998, 52, 135, 237–245, 371, 377–378); Oulhen (2004, 294) on *engye* and *ekdosis* as the “technical term” and the “general term” for the same activity, respectively; K. Bringmann, in Ruschenbusch (2010, 91): on *engye* as “the handing over of the bride, which served as the legal act to establish a marriage”; Cox (1998, 92–93, 178–179); Cox (2011, 232) (“the father gave his daughter away in marriage by the act of *engye*”); Furley (2015, 10, 138). See also next note and nn. 16 and 41 below.
 - 12 For the distinction between *engye* and *ekdosis*, see Wolff (1952, 15–16, 26), Harrison (1968, 6) (with n. 2), and next note. One of the reasons for the perceived fusion between *engye* and *ekdosis* was probably that the betrothal formula included the agreement of the *kyrios* to “give” the woman to her prospective husband: cf. Men. *Perikeir.* 1013–1015 (see n. 22 below). However, *engye* as a non-binding oral promise was not the same as the actual ceremony of giving: cf., e.g., Men. *Dysc.* 762, who distinguished betrothal and the act of giving (ἐγγυῶ, δίδωμι), with Wolff (1944, 73–74) (see n. 68 below); and Terence, *Adelph.* 670: *quis d(r)espondit? quis dedit?*, with Karabélias (2002, 153) (who interpreted the former phrase as τὴς ἡγγύησεν; and the latter as τὴς ἐξέδωκεν;). Defining the relationship between *engye* and *ekdosis* is important for several reasons, including establishing the moment when the husband acquired control (*kyrieia*, see below) over his wife: for an overview of the debate, see Leduc (1982, 24). If *engye* and *ekdosis* were the same, the husband obtained *kyrieia* over his wife at *engye*; if not, then at *ekdosis*.
 - 13 Bickerman (1975, 9–11, 15, 17–18, 22). For *engye* as having been connected with the legitimacy of children: Wolff (1944, 46–53, 1952, 16); Cantarella (1964, 150); Just (1989, 44–47); Vérilhac and Vial (1998, 55, 235–237); Lambert (1998, 182). Those who see *engye* and *ekdosis* as separate steps still hold them to have been two necessary components of marriage in ancient Athens: see Erdmann (1934, 233–234, 237–238); Cantarella (1964, 122, 124, 126–129, 136, 142, 152); Sealey (1984, 120) (“*engyesis* was brought to fulfillment by *ekdosis*”); Karabélias (2002, 161, 2005, 55–57); Leão and Rhodes (2015, 77), and, in particular, the view that marriage was ineffective, and therefore it failed to produce legitimate children, if either *engye* or *ekdosis* was missing: Modrzejewski (1981, 47–48, 50 n. 56, 62, 68); Phillips (2013, 138).
 - 14 [Dem.] 46.18 = Ruschenbusch (1966), F 48b = Martina (1968), F 440, and Wolff (1952, 23); Cantarella (1964, 156, 160–161).
 - 15 E.g., [Dem.] 47.57; Hyper. 3.16; Pl. *Lg.* 11, 923d; Schol. Eurip. *Alc.* 989. See esp. Wolff (1944, 50) (the woman was “only lent out from one family to another for the purpose of bearing offspring to maintain it”), and, e.g., J. C. Miles, in *Hermathena* 77 (1951), 38–41; Leduc (1982, 27, 1992, 273–282); Hartmann (2000, 18) (with n. 42) with Omitowoju (2002, 23, 118): on *engye* as a “security” or a “pledge.” Pace Cox (2011, 234): on marriage in Athens as a “kind of fusion of two estates” and the “unification of two *oikoi*”; cf., correctly, Cox (1998, 106) (“the wife was only a temporary member of her husband’s house”), 119; Sealey (1984, 120–121) (“marriage did not create a new community of husband and wife; it was a means to provide heirs to the bridegroom’s estate by continuing his line”).

- 16 See esp. Herrmann (1990, 97–99) (tracing this practice to Homeric times), 100–101 and 111 (on *engye* as ensuring a guaranteed payment for a purchase, rent, lease, and contract for services). The already mentioned confusion between *engye* and *ekdosis* in modern studies (see nn. 11–13 above) can also probably be explained in part by the fact that *engye*, too, included the idea of giving (a pledge): see Herrmann (1990, 102–103). It is noteworthy that once (some) marriages began to be arranged in a written form in the early postclassical period (see chapter 4), two types of marriage contracts emerged: the *syngraphe synoikisiou*, “which was chiefly the instrument to attest that the bride had been given in marriage by *ekdosis*,” and the *syngraphe homologias*, “which originally had been merely as acknowledgment by the husband of the receipt of a dowry”: see Wolff (1939, 5–6).
- 17 Lacey (1968, 138) (quote). Return of the woman and the property: Dem. 27.17, [Dem.] 40.6–7, 59.52; Isae. 3.35–36, 77–78, 8.8. Hunter (1993, 108); Cox (1998, 105–107); Karabélias (2002, 168–170). For the wife’s natal family having control over her dowry, see Leduc (1982, 25); Vêrilhac and Vial (1998, 194–195, 373); Phillips (2013, 139).
- 18 Dem. 30.8 (*apotimesasthai phaskon ten gen*), with Lipsius (1905–15, 348–349, 490–491, 695–697). The concept *apotimema* probably had a general application: Finley (1951, 38); Biscardi (1999, 178). Cf., however, Harris (2006, 207–239), incl. 210: “Curiously enough, [*apotimema*] is also seen on a few *horoi* set up on property pledged as security for a loan.”
- 19 Harrison (1968, 296–303) (with sources and bibliography), who pointed out (302–303) that dotal *apotimema* had no fixed term, so that even the birth of legitimate children did not eliminate the possibility of the woman and the property being returned to her natal family; cf., e.g., cases of *aphairesis*, when women, who happened to become *epikleroi*, were made to divorce and marry their closest paternal relatives: Isae. 3.64–65 (with page 86, n. 61) and Cox (1998, 123–124); Karabélias (2002, 147–148). On the inconsistent application of the words used for dowry, see esp. Vêrilhac and Vial (1998, 112–160).
- 20 The right to own immovable property in the territory of Attica could also be offered as a separate grant or as part of the status of a *polites* (see chapter 3). Such people, however, did not count among the *astoi*, and therefore they could not have the same rights as the *astoi*: cf. the status of the Plataeans (see appendix 3).
- 21 Such marriages: [Dem.] 59.92, 104, 106 (see pages 283–284 and 286, n. 14). For the right of *enktesis* as being awarded either separately or as a part of the status of a *polites*, see chapter 3.
- 22 Men. *Perikeir.* 486–498 and 1013–1015, respectively. Here and below, F. H. Sandbach’s edition is being used. See Finley (1951, 30, 79, 226 n. 29), who rejected Menander’s numbers, with Schaps (1979, 99); Leduc (1982, 16); Vêrilhac and Vial (1998, 142–143); Cox (1998, 75); Golden (2015, 110–115) (including specific variables that might have affected the size of dowries). Cf. the exceptionally large dowry of twenty talents, with half to be paid after the birth of a child, given by Callias to Alcibiades: [And.] 4.13–14 and Plut. *Alc.* 8.1–4.
- 23 Harrison (1968, 18, 50); Gomme and Sandbach (1973, 531); Fantham (1975, 46); Bickerman (1975, 9); Oakley and Sinos (1993, 9–10); Konstan (1993, 144); Katzoff (1995, 55–64); Ogden (1996, 38, 84); Roy (1999, 4); Karabélias (2005, 58–59); Harris (2015, 298); cf. Furley (2015, 10, 138, 180): the “official marriage formula.”
- 24 See also Men. *Dysc.* 842–845, *Sam.* 726–729, *Misoum.* 444–446, and Char. *Call.* 3.2.4, with Cantarella (1964, 136–137); Paoli (1976, 566–567); Sommerstein (2014, 13). For discussions of such formulaic expressions, including “to take (a wife)” and “to give (a daughter),” see Rudhardt (1962, 55–56); Bickerman (1975, 9–12).
- 25 *I. Cret.* IV 72, col. X.20–22. Although the text is not exactly a legal code *stricto sensu*, this definition has been commonly used in modern scholarship and retained here for

- the sake of convenience. For the meaning of “to give” in such cases: Link (1994a, 417–418), and S. Link, in *ZRG* 114 (1997), 380–381, 383–386, focusing on distinction between “marriage” and “betrothal,” and on the return of the dowry in case of a childless marriage.
- 26 E.g., Bickerman (1975, 12–13); Cantarella (1964, 130); Lacey (1968, 110–111); Scalfuro (1994, 158–159); Pomeroy (1997, 36, 177); Patterson (1998, 109, 112); Hartmann (2000, 17, 2002, 84–95); Bernard (2003, 58–61); Oulhen (2004, 294–295); Schmitz (2007, 29); Gherchanoc (2012, 23–34); Glazebrook and Olson (2014, 71), – who have neither distinguished the *astoi* as a separate group nor specified engyetic marriages as a distinct type of matrimonial unions.
 - 27 Pl. *Lg.* 6, 775a; Isae. 3.76, 8.18; Dem. 57.43; Harp. Γ 2 and Poll. 3.42 (who also spoke of the *gamelia* as a sacrifice). with Erdmann (1934, 261–266); Pomeroy (1997, 79–80); Hartmann (2002, 130–131) – all of whom correctly interpreted it as another means to publicly acknowledge the legitimacy of future children, and Ogden (1996, 85–87). Common cults of relatives (*syngeneis*): Lewis (1997, 81–82). The *phrygetron*: Poll. 1.246. A detailed description: Oakley and Sinos (1993, 11–42).
 - 28 See Vêrilhac and Vial (1998, 265) on Greek marriage, without qualification, as necessarily involving three people: the husband, the wife, and the person who “gave her away.” Those few who have noted that only *astai* had *kyrioi*, interpreted *astai* as “citizens,” i.e. with no link to the kinship community: e.g., Bickerman (1975, 16); Fantham (1975, 48); Cohen (2015, 73) (but see next note).
 - 29 For this generalizing perception, see, e.g., Lipsius (1905–15, 482–484); Harrison (1968, 30–32); Lacey (1968, 21); Vatin (1970, 5); Littman (1979, 15); Schaps (1979, 48–60); Just (1989, 26); Hunter (1994, 12, 22); Sealey (1994, 18, 77, 83); Cohn-Haft (1995, 12); Foxhall (1996, 149–150); Omitowoju (2002, 83, 117, 122); Hartmann (2002, 76, 132); Hamel (2003, 68, 133); Cantarella (2005b, 245); Lanni (2006, 21); Niku (2007, 23); Phillips (2013, 138); Cohen (2015, 106–108, 136–137); Omitowoju (2016, 130) with n. 46. A similar approach to *kyrioi* elsewhere: T. W. Beasley, in *CR* 20 (1906): 249–253; K. R. Kristensen, in *Symposion 2005* (2007), 89: “all Gortynian women in fact had a *kyrios*”; the opposite view: Erdmann (1934, 35 n. 8, 39 n. 2, 52); S. Link, in *ZRG* 121 (2004), 77, 82.
 - 30 [Dem.] 59.107 and 46, respectively; cf. 59.121.
 - 31 Athenae. 13, 572a: *astes, eremou d’epitropou kai syngenon*. While the meanings of the words *kyrios* and *epitropos* were not identical (e.g., Erdmann 1934, 38), in this case the latter substituted for the former.
 - 32 This view: Vernant (1988, 57) (“the woman became a concubine if she installed herself on her own responsibility, no intervention being made by her *oikos*”); Modrzejewski (1981, 52). On Glycera as Polemon’s *pallake*, see Sommerstein (2014, 12); Furley (2015, 11) (Glycera “is ‘her own mistress’ in the sense that she has no male *kyrios* lord-ing it over her”), 12, and 138. However, we need to distinguish between cases when the woman was given in engyetic marriage by her *oikos*, i.e. her *kyrios*, and when she was given in concubinage by her *oikos*, i.e. her relatives: Isae. 3.39. In each such case, the role of the *oikos* was different. Rosivach (1998, 55) referred to a woman being “her own mistress” as “technically impossible.” But [Dem.] 59.46 and Athenae. 13, 572a suggest that Menander described a situation that his audience knew well.
 - 33 A distinction needs to be made between the woman’s status as her own guardian and the act of the woman “giving herself” in marriage (since *ekdosis* could formally be effectuated only by her father or a paternal kin); the latter practice is thought to have been a later development: Modrzejewski (1981, 57–60) (who labeled it a “self-*ekdosis*,” *l’auto-ekdosis*), followed by Karabélias (2005, 57–59). Curiously, neither of them made a reference to Glycera.
 - 34 E.g., Karabélias (2002, 10).
 - 35 [Dem.] 43.54 (see n. 137 below).

- 36 Isae. 1.39. See, in general, Karnezis (1972, 226–227). For the “order of age,” see, e.g., Willetts (1955, 70–71). For the debate on whether this should mean that each heiress married a cousin according to his own age or according to the age of cousins’ fathers, see Bile (1994, 46–47, 49–50) and S. Avramovic, in *Symposion 1993* (1994), 53–55.
- 37 E.g., [Dem.] 43.3, with Karabélias (2005, 39–40). The adjudication happened on the basis of the daughter’s introduction by her father in his phratry, which confirmed her legitimate status: Isae. 3.73 (see n. 59 below).
- 38 E.g., Erdmann (1934, 75–76); MacDowell (1978, 103); Schaps (1979, 28–29); Karabélias (2002, 161); Ste. Croix (2004, 234); Cudjoe (2005, 57) (with bibliography); Phillips (2013, 138); Griffith-Williams (2013, 254).
- 39 So, correctly, Wolff (1952, 5, 8, 10); Modrzejewski (1981, 51–52); Leduc (1994, 54); Phillips (2013, 175); Griffith-Williams (2013, 254). Cf. Wolff (1944, 75): on this situation as the “Attic marriage system.” This situation also explains why only legitimate children could have *kyrioi*; cf. [Dem.] 36.8: according to the will of the banker Pasio, who was not as *astos* but a *polites* “by decree” (for this status, see chapter 3), when he died, his associate Phormio married Pasio’s widow and became an *epitropos* (which is also translated as a “guardian”) for Pasio’s sons.
- 40 [Dem.] 44.49, 46.18 (see n. 14 above), and Hyper. 5.16, respectively. Solon’s authorship of this law: e.g., Harrison (1968, 5); Ogden (1996, 37); Ruschenbusch (2005, 208).
- 41 The fact that only the *kyrios* could give the woman in engytic marriage also illustrates the difference between *engye* and *ekdosis*: see esp. Karabélias (2002, 141–142).
- 42 Isae. 6.25; [Dem.] 44.62; cf. Poll. 8.104, with Drerup (1897, 280–281); De Sanctis (1975, 273 n. 66); Glotz (1904, 335–336); Bickerman (1975, 18); Harrison (1968, 233); Rubinstein (1993, 40). The *Suda* (E 2385) might have intended the same meaning when referring to *gnesioi* brothers as having the right to “co-inherit” the patrimony (*synkleronomous*).
- 43 [Dem.] 43.51 and Isae. 6.47, with Drerup (1897, 286). Sources give different amounts: cf. five minae in the *Suda* (E 2385) and Schol. Aristoph. *Av.* 1656a, and ten minae in Harp. N 18 and the *Suda* (N 448). Solon’s authorship: e.g., Patterson (1998, 90); Cantarella (2011, 338).
- 44 His authorship: Dem. 20.102, [Dem.] 43.78, 46.14, with Leão and Rhodes (2015, 84–85, 78–81), respectively; cf. similar language in [Dem.] 48.56 and Arist. *Ath. Pol.* 35.2. Preference of males: [Dem.] 43.51, 78, and 44.12, 62; Isae. 7.20.
- 45 Isae. 4.15–18, 7.20, 11.1–3 and 11–12 (who also used the word *anchisteia* to define the kinship connection between the deceased person and his relatives within the stated degrees); [Dem.] 43.3 (*he kleronomia kata ten anchisteian*), 51, 61, and 44.14–15 and 66, with Drerup (1897, 281–284). For defining “children of first cousins,” see MacDowell (1978, 106); Rubinstein (1993, 44 n. 32); Patterson (2009, 59); Cudjoe (2010, 31–32).
- 46 The *oikos*: Harp. Y 13. The law of Draco: *IG* I³ 104.13–16 (409–408 B.C.); [Dem.] 43.57, 47.72. See also below. Although the word *oikos* did not emerge until the late fifth and fourth century (MacDowell 1989, 20), it has commonly been used in this meaning in retrospect: e.g., Miller (1953, 52) (“In historical terms, the *oikoi* are blood lines within the *genos*”); Patterson (1998, 47); Donlan (2007, 29); Foxhall (2013, 24).
- 47 See Paoli (1976, 324) (with n. 2), who raised the problem of how this fundamental concept – of a sacral nature, according to Paoli – became part of Athenian civil law, and pointed (328–329, with n. 12) to the role of Solon. This approach was then borrowed by Plato for his ideal state: see “children of cousins” in *Pl. Lg.* 9, 877c–d; but cf. “cousins” in 9, 871b. The view that this system was a democratic invention (e.g., Lacey 1968, 28) reflects the usual modern mixing of individual kinship and political status in ancient Athens.
- 48 Aristoph. *Av.* 1660–1666 with Busolt (1926, 834) (and n. 3 with other sources and bibliography).

- 49 Ogden (1996, 35–36, 2009, 108); cf. Carawan (2008, 397).
- 50 This explanation: Lacey (1968, 24); Sealey (1994, 17); cf. De Sanctis (1975, 275–276); Karabélias (2002, 18–20); Wohl (2010, 255). For the property adjudicated to the *epikleros* being inherited only by her *gnesioi* son(s): Isae. 8.31, 10.12, with Lipsius (1905–15, 509 n. 33); Karnezis (1972, 228); Hunter (1993, 107); Karabélias (2002, 181–183); Leduc (2011, 176, 178); Griffith-Williams (2013, 96–103). For legitimate daughters inheriting part of the patrimony alongside their brothers: *I.Cret.* IV 72, col. IV.31–43, 48–54 (see page 85, n. 43). *Notheia*: Harp. N 18 (see n. 43 above), with Harrison (1968, 67–68); Ogden (1996, 38–39) (Athens), 264 (Gortyn).
- 51 [Dem.] 44.49, 46.18 (see n. 14 above). Ogden (1996, 38): “*gnesios* can only mean ‘legitimate’ and not ‘of the blood.’”
- 52 For legitimate children born in marriages between Athenian *astai* and *politai* “by decree,” see [Dem.] 59.104, 106 (see pages 283–284 and 286, n. 14); for a discussion of the relevant evidence, see also chapter 5.
- 53 Arist. *Ath.Pol.* 42.1, and Gomme (1937, 75) (and n. 1) with bibliography.
- 54 MacDowell (1976, 89); Gomme (1937, 75) (with n. 1); Rhodes (1978, 89); Sealey (1984, 123–124); Carey (1995, 416–417); Bertazzoli (2005, 685). See also the skepticism expressed by Cantarella (1997, 103); Omitowaju (2002, 22) (who, however, believed that Athenian citizens could only be born in a “legitimate sexual union”: 114), and a similar stance by Schmitz (2014a, 231). For brief overviews of the debate, see Ogden (1995, 237–238 n. 59); Hartmann (2002, 218–219); Wohl (2010, 247 n. 11); Damet (2012, 143) (with nn. 71–72); Kamen (2013, 63–64).
- 55 See nn. 41 and 42 above. For this view, see, e.g., Ledl (1908, 190); Paoli (1976, 356); Cantarella (1964, 130, 150); Harrison (1968, 9); Karabélias (1990, 57); Mossé (1991, 275, 278); Hunter (1993, 108); Rubinstein (1993, 19); Leduc (1994, 55); Ogden (1995, 227, 1996, 121); Gschnitzer (1997, 416); Maffi (1998, 20); Cox (1998, 73); Ste. Croix (2004, 234); Oulhen (2004, 275); S. Ferrucci, in *Dike* 9 (2006), 194; Foxhall (2013, 33). See also page 280, n. 22.
- 56 Marriage: e.g., Wolff (1952, 4); Harrison (1968, 1); Patterson (1998, 108), with nn. 26–27 above. Adultery: e.g., Cohen (1984, 147–165); Patterson (1998, 114–125). Cf. Ogden (1997, 25), with appendix 2.
- 57 Such situations: Mossé (1991, 273). The other major reason why engyetic marriages were necessary for the legitimate status of children was that, in addition to *astoi*, some non-*astoi*, such as recipients of the grant of Athenian *politeia* or of the right of *enktesis*, could also arrange engyetic marriages with Athenian *astai* and father legitimate children: see chapter 5 and appendix 3.
- 58 E.g., Wolff (1952, 26–27); Maffi (1989, 178, 182); Ogden (1996, 157–158), who referred to such women as “citizens.” It has been argued that this situation was uncommon: e.g., Glazebrook (2006, 138 n. 27) (with bibliography). However, judging by the evidence about the special care taken by the city of Athens to prevent legitimate daughters from being given in marriage as “children of mistresses” (see below), such occasions were not rare. For bibliography on the theory of “legitimate concubinage,” see Cox (1998, xviii n. 18).
- 59 Isae. 3.73: *epi hapanti toi kleroi epidikon katalipein auten*; cf. 6.25–26: the *gnesioi* sons are expected to be introduced to the members of the phratry, and to inherit the patrimony in equal shares. Pomeroy (1997, 76–77); Lambert (1998, 178–179) interpreted this as an exceptional case, but the casual nature of the reference suggests that such occasions were quite widespread; see also Rubinstein (1993, 49).
- 60 Isae. 3.45–47, 48, 52. For summaries of the debate on this evidence, see Patterson (1990, 41–46); Eidinow (2016, 321–322) (with n. 45).
- 61 On *gnesiai* living as *hetairai*: Athenae. 13, 586f, 592c (= Lys. fr. 299, Carey); Harp. N 1. On *astai* living as *hetairai*: Diog. Laert. 5.76; Plut. *Qu. Conv.* 7.8, p. 712c, pointing to a typical feature of Menander’s comedies: some prostitutes (*hetairai*) suddenly appeared to have a *gnesios* father; Athenae. 13, 572a (with reference to the comic poet

- Antiphanes: see n. 31 above). They thus turned out to be *astai* and, therefore, were also able to be given in engyetic marriage, which made for a happy ending of some such plays: see W. S. Anderson, in *Ramus* 13 (1984), 127 (the “single romantic pattern, which restores the girls to their fathers and thus enables them to contract a legitimate and honorable marriage”); Rosivach (1998, 53–63); Omitowaju (2002, 212–213); Lape (2004, 13–17); Wiles (2001, 52): “young men in Menander undergo a change of character, young women undergo a change of status”; Sommerstein (2014, 17–19). Ogden (1996, 158–163) doubted that this was possible for “citizen women,” while Hartmann (2002, 188) marked such cases as exceptions; but see Eidinow (2016, 322 n. 46).
- 62 This evidence casts doubts on the explanation suggested by Elke Hartmann (2002, 82–83) that *engye* served to guarantee the status of the woman as an Athenian born in a legal marriage. However, while the status of a woman was important for the type of the marriage that could be arranged for her, such women could also live, and give birth to children, as prostitutes and concubines. Other objections to this interpretation of *engye* include (i) the oral character of engyetic marriages, which implies that such marriages emerged within the kinship community, i.e. before written laws and contracts (see chapter 4), when the status of brides raised no doubts, and (ii) the way in which the word *engye* itself was used in marriage agreements: cf., e.g., [Dem.] 46.18 (see n. 14 above). It is hard to see how a woman could be used as a security; cf. Hartmann (2002, 83, 84, 130, 238) with reference to *gyne engyete* as “eine als Sicherheit übergebene oder übergebbare Frau.” A security for what?
- 63 The discussion of both plays: Konstan (1993, 145–148); see, in general, Ogden (1996, 158–163); Omitowaju (2002, 137–162, 218). A similar conclusion follows from the position of Euripides’s *Electra*, which was examined above.
- 64 Debtors of the state: e.g., [Dem.] 59.8. For family poverty as the reason for the lack of dowry and, accordingly, the need to give daughters in concubinage instead of engyetic marriage, see, e.g., Isae. 3.39, with Bertazzoli (2005, 663, 672). Cf. Diod. 12.18.3–4 (see next chapter). It was more difficult for women to get married without a dowry: Plut. *Arist.* 1.1, 27.2; Plut. *Lysan.* 30.6, with Ael. *V.H.* 10.15; [Dem.] 59.8.
- 65 Kapparis (1999, 10).
- 66 Cf. Harris (2006, 314): “When a woman was given to a man, it was her father who concluded an agreement with her husband and determined the nature of the union, either one based on a pledge (*engye*) or a form of concubinage (*pallakia*), which in turn determined the status of her children (*gnesioi* or *nothoi*). There is no reason, therefore, to see the latter type of agreements as “regular matrimonial contracts””: Bertazzoli (2005, 643).
- 67 Plut. *Sol.* 23.2 (“no man is allowed to sell a daughter or a sister, unless he finds that she is no longer a virgin”). See Glotz (1904, 354–355, 361); Erdmann (1934, 289); Lacey (1968, 115); Carey (1995, 407 n. 2); Ogden (1997, 28); Patterson (1998, 131), who tentatively interpreted this provision as neglecting an “earlier traditional social ethic”; see also Schmitz (1997, 88); Roy (1999, 11) (who, however, correctly observed that “there is no known case of a daughter sold into slavery under that law”); Omitowaju (2002, 119 n. 12); Lape (2002–03, 122), who saw it as a “remarkable concession against the supposedly non-passable boundary between free citizens and slaves established by Solon’s reforms”; Schmitz (2004, 215) (and n. 205); Glazebrook (2005, 35) (with bibliography); Patterson (2009, 53); Kaffarnik (2013, 141–142), who shared the view that this law was not used during the classical period.
- 68 This identification: Cohen (2003, 225). Cohen’s specific view needs to be evaluated separately from the old generalizing perception, advanced by Wolff, that puts concubines and prostitutes in the same social group in ancient Athens: Wolff (1944, 73–74), using *pallake* as a generic definition for any woman, whether a slave or free, who lived with a man without being his wife either through *engye* and *ekdosis* or through *epidikasia*. A free *pallake* as occupying an intermediary status between the legal wife and a *hetaira*: Cox (1998, 170); Omitowaju (2002, 215–219).

- 69 E.g., J. Rougé, in *Cahiers d'histoire* 15 (1970), 307; Harris (2006, 314) (see n. 66 above). Kennedy (2014, 20–21, 112–117) correctly made a clear distinction between the engytic marriage and *pallakia* on the one hand, and between *pallakia* (which offered a certain protection and maintenance to a woman, and, thus, was “occasionally an alternate form of marriage for citizen women without dowry or *kurios*”: 21) and prostitution.
- 70 Isae. 3.39; [Dem.] 46.18 (see n. 14 above); Modrzejewski (1981, 52); Harris (2006, 314) (see n. 66 above).
- 71 E.g., Hesych. s.v. νοθογέννητα. Cf. Carawan (2008, 391 n. 30): “the ordinary implication of *nothos* (nowhere defined) was that the mother was not an Athenian *aste*.”
- 72 [Dem.] 59.122 and 59.59–60, respectively. For the use of *paidopoieisthai* and its cognates in such cases, see Dem. 57.43 with Rudhardt (1962, 55).
- 73 Isae. 8.19; Hyper. 3.16; Poll. 3.21. See also, e.g., Pl. *Lg.* 11, 923d (with detailed provisions on the inheritance of the patrimony and its division among successors); Lipsius (1905–15, 705–715); Busolt (1926, 221, 960–962).
- 74 Diog. Laert. 2.26; cf. Arist., fr. 93: *gamein men asten mian, paidopoieisthai de kai ex eteras* and Athenae. 13, 555d–556b (see n. 77 below). This interpretation: e.g., Ogden (1996, 73); Gallo (2012, 222); Scafuro (2012, 158, 160 n. 2); Eidinow (2016, 303) (and n. 70 for a thorough historiographic overview). Pace Kapparis (1999, 11) (“another woman,” not “another citizen”) and Bertazzoli (2005, 654 n. 42) (with bibliographic references to this expression as allegedly also pertaining to alien women). Aristotle’s reference to *paidopoieisthai* alone offers no grounds to see Xanthippe as Socrates’s concubine, against the opinion of Haake (2013, 102–103) (with bibliography).
- 75 Holwerda (1960, 368), col. II, vv. 2–8 (on Myrto as married to Socrates “according to laws”: *ek nomon*, thus suggesting that Xanthippe was a concubine); cf. Pl. *Phaed.* 116b (on Socrates’s “women”). Cyril, *C. Iul.*, 6 (186) = Aristoxen., fr. 54a and *FGrH* 260 (Porphyry.), F 11 = Theodoret., *Graec. aff. cur.* 12.174 = Aristoxen., fr. 54ab: καὶ τὴν μὲν Ξανθίππην προσπλακεῖσαν λαβεῖν (var. περιπλακεῖσαν λαθεῖν) instead of πρὸς παλλακεῖαν λαβεῖν (var. πρὸς παλλακεῖαν λαθεῖν), with Jacoby’s comment ad *FGrH*, loc. cit. and Bicknell (1974, 1); for Myrto, see Cyril (*gamo*) and Theodoretus (*gametheisan*). Neither Plutarch’s reference (*Arist.* 27.3) to Myrto and “the other wife” of Socrates, whom he married “because her poverty kept her a widow,” nor St. Jerome’s mention (*Adv. Jovin.* 1.48) of Socrates’s “two wives” provided a clear definition of their legal status.
- 76 Ogden (1996, 65, 72–73, 77), whose interpretation was probably influenced by Aulus Gellius’s story that Euripides allegedly simultaneously lived with two women, whom Gellius described as his “wives”: Gell. *NA* 15.20 (*duas simul uxores habuerat*). Ogden (1996, 72–73, 190–191) put this evidence together with the case of Socrates, and concluded that Euripides “also enjoyed bigamy under the same decree”; pace Haake (2013, 105 n. 177), who interpreted Gellius’s source as a “later construct inspired by the supposed bigamy of Socrates.” However, even if Socrates and Euripides indeed lived with two women in accordance with the same legal enactment, we should not establish the status of these women on the basis of a late Roman text. Thus, Lipsius (1905–15, 479–480) (with n. 81); Busolt (1926, 942) (with n. 3) correctly refused to define the position of Socrates as bigamy. Erdmann (1934, 170–171); Ste. Croix (2004, 234), and, more recently, Hartmann (2002, 55) (but see 214 with certain reservations) and Lape (2010, 245) interpreted this evidence in the sense that the Athenians relaxed the “Periclean citizenship law” sometime during the Peloponnesian War; for this “law,” see chapter 5.
- 77 For similar conclusions (and earlier bibliography): Wolff (1944, 85); Rudhardt (1962, 43 n. 24). For skepticism (and later bibliography): Thompson (1972, 214–215). On only one engytic marriage being possible at any given time, see Avramović (1997, 81, 134) (and n. 9), with bibliography. A late author, Athenaeus (13, 555d–556b), evidently made a mistake when he categorized both Xanthippe and Myrto as *gametai*

- wives of Socrates (cf. Plut. *Arist.* 27.3; on these ladies, see n. 75 above); on *gamete* as a synonym for *engyete*, see n. 9 above.
- 78 Recovery of the dowry: e.g., Dem. 22.17, 30.8, [Dem.] 40.6, 59.52; Isae. 3.9, 77–78 (see n. 140 below); Arist. *Ath.Pol.* 52.2, with Leduc (1982, 26); Hunter (1989, 297); Karabélias (2002, 156) (and n. 44 for bibliography). Remarriage with the recovered dowry: e.g., [Dem.] 40.6–7; Isae. 2.9, 8.8, with Erdmann (1934, 55–57, 59–65, 309, 327–332); Thompson (1972, 219); Griffith-Williams (2013, 112–113); esp. Cox (1998, 75, 119–120).
- 79 The status of the husband: Erdmann (1934, 322–326); cf. Isae. 8.31. The woman’s continuing connection to her natal family: Wolff (1944, 47); Hunter (1989, 291, 298, 1993, 100, 103); Kapparis (1999, 15), and nn. 15 and 17 above.
- 80 Pericles: Plut. *Per.* 24.8; Protomachos: Dem. 57.41. Demosthenes: Dem. 28.15–16, with Cox (1998, 71–72). The evidence about Nicarete and the wife of Menecles (Isae. 2.7–9) suggests that such remarriages were arranged by patrilineal relatives of the woman, typically her brothers, if they happened to be alive.
- 81 For “several types of marital relation” in ancient Greece: e.g., Wolff (1944, 43).
- 82 Th. Thalheim, “Επιγαμία,” in *RE* 6 (1907), 62–63; Rhodes (1997c, 1105); Ogden (1996, 69–70).
- 83 E.g., Busolt (1926, 941–942); Brun (2010, 109).
- 84 Modrzejewski (1981, 40).
- 85 Lipsius (1905–15, 417–418); Kolbe (1921, 243, 245); Carey (1991, 84–85).
- 86 Busolt (1926, 223); Chaniotis (1996, 103); Ogden (1996, 70); see also Daverio Rocchi (1993, 85). Cantarella (2005b, 246); Maffi (1998, 20, 2005, 254); Vernant (1988, 55). See also Harrison (1968, 29); Cox (1998, 171, 178); Hartmann (2002, 76–77); Bremen (2003, 316); Hamel (2003, 51).
- 87 Robert (1962, 64 n. 2); Wankel (1976, 499–500).
- 88 Hence, debates about the status of Archippe not only miss the mark but even add further confusion once they raise the issue of her alleged citizenship, and that of Pasio and Phormio; see Whitehead (1986b, 109–114); Carey (1991, 84–89). For discussions about the status of Archippe, see chapters 3 and 4.
- 89 Arist. *Ath.Pol.* 17.2: “Iophon and Hegesistratus surnamed Thessalus,” and Plut. *Cato Mai.* 24.8; for them as *nothoi*, see Hdt. 5.94.1; Thuc. 6.55.1. The latter text has been interpreted in a sense that Thessalus was not the son of Timonassa of Argos but of the Athenian wife of Pisistratus, and, therefore, he was counted as legitimate by Lavelle (2005, 198–209), who made Thessalus a son of Pisistratus by his Athenian wife (with reference to Thuc. 6.55.1, which offers nothing to support this conclusion) and Duplouy (2006, 86). One wonders at the basis for presenting Hippias and Hipparchus as *metroxenoi* in Jacoby (1954a, 478).
- 90 The first wife: Diod. 13.96.3, 14.44.5, with Sanders (1987, 24). Two wives: Diod. 14.44.6–8, 14.107.3, 16.6.2, with Sanders (1987, 24) (398 B.C.) and Sordi (1992, 45–47) (ca. 393 B.C.). Dionysius II: Diod. 16.6.2, with Caven (1990, 98–99).
- 91 *IG* I³ 104.13–19 (409–408 B.C.), with Hedrick (1984, 210–211); Patterson (1998, 88–89). Phillips (2008, 54).
- 92 [Dem.] 43.57; *IG* I³ 104.21–23, with further ancient references in Leão and Rhodes (2015, 17–24). This view: e.g., Tulin (1996, 13 n. 29); Forsdyke (2005, 88); Pepe (2012, 71–72).
- 93 The *gamelia*: see n. 27 above. The introduction of *gnesioi* children: [Dem.] 59.122; Isae. 6.25–26, 7.15–16, 8.19.
- 94 Isae. 3.73 (see n. 59 above), with the discussion of this excerpt, and the overall practice of registration in phratry, by Lambert (1998, 178–188) (with bibliography) and Ogden (1996, 113–115).
- 95 Isae. 7.16 (see page 86, n. 58). For this expression as referring to engyetic marriage: e.g., Isae. 3.12; cf. Isae. 8.19.

- 96 *IG II²* 1237.108–111 (396–395 B.C.), with Hedrick (1984, 110); Ogden (1996, 111–112), who correctly observed that there was no significant distinction between “married” and “given in betrothal” in such cases.
- 97 For the political role of pre-Cleisthenic phratries, see page 243, n. 18.
- 98 Political competency was allegedly associated with phratry membership before Cleisthenes (see pages 243–244, nn. 18–19), who left phratries, and *gene*, as they had been before: Arist. *Ath. Pol.* 21.6 (see n. 105 below). Women’s registration in phratries: Isae. 3.73 (see n. 59 above).
- 99 [Dem.] 59.59–63. This view: e.g., Andrewes (1961, 6).
- 100 Esp. Bourriot (1976, 19–28, 595–662, 663, 682–692) (on the change in the meaning of the word *genos*), 692–697 (about the projection of this new meaning into the past).
- 101 Toepffer (1889, 5–6, 19–20); Roussel (1976, 65–78bis); Bourriot (1976, 681–683); Parker (1996, 56–66); Blok (2009b, 264–266); Blok and Lambert (2009, 101): “the essential function of *gene* in the classical polis was precisely to supply suitably qualified priests for *polis* cults”; Ismard (2011, 166). Cf. Davies (2012b, 609): “not all *gene* are known to have ‘possessed’ priesthoods or other cultic privileges.”
- 102 It looks as if the geographical locality of ancestral tombs, as such, was of minimal if any importance: see Cox (1998, 38–43), who pointed (38–39) that “those extended group burials . . . generally emphasized kinship through the father.” Cf. [Dem.] 43.62 on the law of Solon that defined the circle of the relatives who could follow the body of the deceased when it was carried to the tomb: see page 91, n. 111.
- 103 Arist. *Ath. Pol.* 42.5, with Aleshire (1994, 325–337) (“restricted allotment”), and Blok and Lambert, who asserted (2009, 96, 99, 101, 108) that the appointment was by lot from the established candidates from among the *gennetai*. See also Hesych. s.v. γεννῆται.
- 104 [Dem.] 59.104–106; see chapter 5 and pages 283–284 and 286, n. 14.
- 105 Arist. *Ath. Pol.* 21.6, which has been accepted as historically correct: Roussel (1976, 141); Lambert (1998, 266–267, 2012, 1142). For its alleged conflict with Arist. *Pol.* 6.2.11, 1319b.20–24, see page 246, n. 55.
- 106 E.g., Lambert (1999, 486 n. 16): “While newly enfranchised citizens were normally given phratry membership, they were never admitted to a *genos*.” Cf., however, And. 1.126–127 (see n. 121 below).
- 107 *FGh* 328 (Philochor.) F 35a = Costa (2007, 255), F 35a: περὶ τῶν ὀργεῶνων γέγραπεν καὶ Φιλόχορος· τοὺς δὲ φράτορας ἐπάναγκες δέχεσθαι καὶ τοὺς ὀργεῶνας καὶ τοὺς ὁμογάλακτας οὓς γεννήτας καλοῦμεν, with a thorough discussion of the evidence and opinions in Bourriot (1976, 595–710).
- 108 Solon: Andrewes (1961, 1–15); Kron (1976, 22 n. 49); Costa (2007, 259). The Pisistratids: Robertson (1992, 90–91) (identifying these new phrateres as Pisistratid supporters, who were expelled by the *diapsephismos* of 510, which Robertson acknowledged as historically valid: see page 207, nn. 58–63); Ogden (1996, 47, 2009, 113). Cleisthenes: Busolt (1926, 252); Ferguson (1910, 264); Hignett (1970, 117–118, 390–391) (with a convenient overview of opinions); Ismard (2007, 30–31, 2010, 105–106). Pericles: Lambert (1998, 46–47); Jones (1999, 250, 254). For dating this law to the fifth century, see also Oliveira Gomes (2007, 72); Davies (2012b, 609).
- 109 E.g., Wilamowitz (1893, 269–270 n. 14); Jacoby (1954a, 320); De Sanctis (1975, 81–82); Bourriot (1976, 677); Davies (1996, 629). The opinion of Hedrick (1984, 214), who counted *orgeones* among the *gennetai*, by extending the meaning of “whom we call *gennetai*” to both *orgeones* and *homogalaktes*, has received no support.
- 110 Arist. *Pol.* 1.1.7, 1252b.16–19, 28–30 (see page 10, n. 13). Bourriot (1976, 683–684, 687).
- 111 Guarducci (1937, 14–15, 26, 45 n. 1); Ferguson (1910, 262–263), and a collection of such views in Bourriot (1976, 600–607). The identification of *gennetai* with nobility: e.g., Roussel (1976, 71). W. S. Ferguson, in *HTHR* 27 (1944), 105: “the citizens automatically registered in the rolls of the phratries were either *gennetai* or *orgeones*, the

- former representing Solon's *pentakosiomedimnoi* and *hippies*, the latter the *zeugitai*"; De Sanctis (1975, 81–82 n. 75) (on *homogalaktes* as probably "legitimate sons" as opposed to "natural ones"); Oliver (1980, 36): "The *homogalaktes* (= *gennetai*) were already members of the phratries, but a new law forced the phratries to accept also the *orgeones* as members, i.e. as Athenian citizens"; Andrewes (1961, 2) (with n. 7); Bourriot (1976, 309, 314); Welwei (1983, 57).
- 112 E.g., Duplouy (2011, 92–93).
- 113 Cf. Lambert (1999, 485): "one point on which some agreement seems to be emerging is that the revisionist distinction between priestly *genos* and *genos-kome* is unsatisfactory."
- 114 Isae. 2.14, 17. For the *orgeones* as members of private religious associations, i.e. similar to *thiasotai* and *eranistai*, see Davies (1996, 604); Jones (1999, 249–267); Ismard (2011, 166); Lasagni (2011, 42); Blok (2013, 172); Wijma (2014, 146).
- 115 Dig. 47.22.4 (δημος ἢ φρατῶρες ἢ ὀργεῶνες ἢ γεννήται ἢ σύσσιτοι ἢ ὁμόταφοι ἢ θιασῶται κτλ.) and *ibid.*: *sodales sunt, qui eiusdem collegii sunt, quam Graeci ἐταιρείαν vocant . . . haec lex videtur ex lege Solonis translata esse*. Seleucus: *FGrH* 341 (Sel.) F 1 = Phot. *Lex.* s.v. ὀργεῶνες = Martina (1968), F 342b = F 555 (Σέλευκος δὲ ἐν τῷ ὑπομνήματι τῶν Σόλωνος ἀξίωνων ὀργεῶνάς φησι καλεῖσθαι τοὺς συνόδους ἔχοντας περὶ τινὰς ἥρωας ἢ θεούς). On Seleucus as Gaius's source: Ismard (2007, 21).
- 116 E.g. [Dem.] 43.78 (= Martina 1968, F 432): "Solon's law prescribes that the males and the children of males are to have precedence," whose genuineness was rejected by Ruschenbusch (1966, F 120), and 44.62; Isae. 7.20, allegedly quoting from the law (= Martina 1968, F 427a): "the males and the descendants of males who have the same origin shall have preference, even if they are more distantly related," which was left out by Ruschenbusch.
- 117 [Dem.] 44.49, 46.18 (see n. 14 above), and Hyper. 5.16 (see n. 40 above).
- 118 Andrewes (1961, 2): this reference formed a part of book 4, which covered the period from ca. 464 to ca. 395–394, or, probably, according to Andrewes, from Ephialtes's reform to the end of the Peloponnesian war. Andrewes, however, admitted that the reference to the law could be one of many digressions by Philochorus.
- 119 Isae. 6.25 and [Dem.] 44.62.
- 120 For *notheia*, see nn. 43 and 50 above. Cf. what looks like a similar situation in a document from Tenos, tentatively identified by the editors as "introduction of members to a phratry": *R&O* 61.4–6: "It shall not be permitted to introduce a bastard (*nothos*); if a bastard is not rejected, introduce a bastard at the same age as for legitimate sons (*epi gnesiois*). Anyone who introduces a bastard, let him pay twenty-five drachmas" (4th cent. B.C.).
- 121 See And. 1.126–127: Callias originally refused to acknowledge his son from Chrysilla, but then decided to acknowledge him when he was "already big." Although challenged by one of his fellow *gennetai*, Callias succeeded in introducing that son into his *genos*, even though his oath included only the words that the boy was "*gneshios*, born of Chrysilla" and made no reference to Chrysilla as an *aste* and *engyete* wife; cf. [Dem.] 59.59–60; Isae. 7.15–16, 8.19. As proposed by Ogden (1996, 117), "it therefore looks very much as though, in this context *gneshios* is to be read as 'of the blood' rather than 'legitimate.'"
- 122 E.g., *IG* II³ 333.19 and 29 (334–333 B.C.), 378.21–23 (323–322 B.C.). For the right of *enktesis*, see chapter 3.
- 123 [Dem.] 59.104, 106: see page 211, n. 120 and pages 283–284 and 286, n. 14.
- 124 They also seemingly had political functions: officials used to be elected by lot from candidates who had been selected by tribes: Isocr. 12.145 (Theseus's time); Arist. *Ath. Pol.* 8.1 (Solon's times). MacDowell (1963, 33) suggested that this information could be erroneous. The archons began to be elected by lot from candidates according to tribes from five hundred previously chosen people elected by the demes, in

- 487–486: Arist. *Ath.Pol.* 22.5; Rhodes (1981, 272–274). They began to be appointed entirely by lot in 457: Arist. *Ath.Pol.* 8.1, 55.1; Rhodes (1981, 613–614).
- 125 Hdt. 5.66.2, with Eur. *Ion* 1575–1576 and Arist. *Ath.Pol.* 41.2.
- 126 Schol. Aristoph. *Acharn.* 146, with Ferguson (1910, 269); Andrewes (1982, 367); Robertson (1992, 84); Lambert (2012, 1142); Phillips (2013, 175); see also Erdmann (1934, 345–347); Seifert (2011, 133–134) (who linked the ceremony of name-giving with the father's recognition of the legitimacy of the child). Hdt. 1.147.1–2; Xen. *Hellen.* 1.7.8 (ἐν οἷς οἱ τε πατέρες καὶ οἱ συγγενεῖς σὺννευσιν σφίσιν αὐτοῖς), with Hedrick (1991, 251–253); And. 1.124–127. Enrollment: Dem. 39.4, with Pomeroy (1997, 76–77); Seifert (2011, 134) (on the Apaturia as the moment when the child was accepted in the *oikos* and in the phratry), 268–272.
- 127 Arist. *Ath.Pol.* 57.1–2, with 3.2 and 42.5. For priesthoods of the *gennetai*, see nn. 103–104 above.
- 128 This role of the King: [Dem.] 47.70, 72: (at least some) cases of death in an *oikos* were to be judged on the basis of Draco's laws; cf. *IG* I³ 84.25 (418–417 B.C.) and Phillips (2008, 59, 72). The Polemarch: Lys. 23.2; Arist. *Ath.Pol.* 58.2–3.
- 129 [Dem.] 43.57–58, 47.68–72 (who used the word *therapaina*, “a servant,” for a slave), with Foxhall (1989, 24 n. 15); Phillips (2008, 110, 119). See Arist. *Pol.* 1.2.1, 1253b.4–7, who referred to the household (*oikia*) in the narrow sense, as consisting of masters and slaves, husbands and wives, and fathers and children, followed by, e.g., Lacey (1968, 15, 237 n. 4); Karabélias (1984, 446, 448); cf. MacDowell (1989, 15) (“it is not normal Attic usage to regard slaves as members of the *oikos* in this sense”). For the *exegetai* in Athens, see Oliver (1950, 24–65); Clinton (1974, 88–93).
- 130 *IG* I³ 104.11–13 (the reinscribing of Draco's laws) and Arist. *Ath.Pol.* 57.4, with Gagarin (2000, 569–570, 573, 576) (tracing this role of the King to Draco's time). Modern studies have generally agreed on the role of the King as presiding over homicide trials (even though they do not specify that these trials were limited to the kinship community), debating only the range of the King's specific responsibilities at such trials: e.g., MacDowell (1963, 33–38); E. Heitsch, in *Symposion 1985* (1989), 71–87.
- 131 [Dem.] 59.72 and 75 (*ten de gynaika autou nomon ethento asten*), which has been understood in the sense that she had to be a citizen: e.g., Lacey (1968, 108); Hamel (2003, 102–113). Parker (1996, 178) suggested that Isae. 6.49–50 referred to a similar situation; however, the text does not seem to support any such inference.
- 132 Arist. *Ath.Pol.* 41.2 (see introduction). E.g., Ferguson (1910, 278); MacDowell (1963, 87); Rhodes (1981, 150–151, 649); Carlier (1984, 353) (and 353–359 in general); Welwei (1990, 163, 1992, 122, 143); Manville (1990, 59); Humphreys (1991, 22 n. 15); Robertson (1992, 59); Ruzé (1997, 333); Gagarin (2000, 569–579); Anderson (2003, 126); Papakonstantinou (2008, 85) (and 175 n. 55 for bibliography); Pepe (2012, 33). The bibliography on the *phylobasileis* as the headmen of the four original Athenian tribes, but not identifiable with the *basileis*: Rhodes (1981, 649); Sealey (1994, 117–119); cf. Roussel (1976, 195).
- 133 E.g., Carlier (1984, 353–359); Wallace (1989, 27–28, 33); Carawan (1998, 50).
- 134 E.g., Carawan (1998, 84, 133): “The earliest homicide court of the Athenians probably consisted of the tribal *basileis* with the *archon basileus* presiding.”
- 135 Lys. 26.12; Isae. 6.36, with Harris (2006, 221–222); [Dem.] 44.34; Arist. *Ath.Pol.* 56.6–7.
- 136 The role of the Archon in establishing the *anchisteia*: Dmitriev (2014, 78–80). Examples of pupillary *apotimema*: e.g., *SEG* 54, 254; 56, 220; dotal *apotimema*: e.g., *SEG* 51, 161; 56, 227 (4th century B.C.). On security in leases of estates of orphans and heiresses and in dowry agreements, see Erdmann (1934, 332–337); Finley (1951, 44–52, 72) (with examples from Naxos and Amorgos), 80, 243 n. 56; Harrison (1968, 293–303); Todd (1993, 252–255); Vêrilhac and Vial (1998, 186, 197–200); Harris (2006, 211, 213) (and n. 22), 226 n. 48. None of them connected this practice with the kinship community. This role of *kyrioi*: e.g., Dem. 30.8 (see n. 18 above).

- 137 [Dem.] 43.54 = Ruschenbusch (1966), F 126 = Martina (1968), F 437, ascribed to Solon by Glotz (1904, 330–331, 338 n. 1); Scafuro (2006, 179); Rhodes (2006, 256–257); Leão and Rhodes (2015, 86–87, 90); cf. Ruschenbusch (2005, 194): after Solon.
- 138 Isae. 6.14, with Kamen (2000, 49), and [Dem.] 43.3 (see n. 37 above). See Cantarella (2005b, 249). Cudjoe (2005, 57) concluded that the “*epidikasia* was conducted to ascertain the relationship of the claimant to the deceased,” making no reference to the kinship community, however.
- 139 Isae. 7.30; see also [Dem.] 43.75. Solon’s authorship: MacDowell (1989, 19); Scafuro (2006, 179). For how to define an extinguished *oikos*, see Asheri (1960, 8, 23).
- 140 [And.] 4.13–14, with Plut. *Alc.* 8.3–6, who used very imprecise terms; Dem. 30.17; Isae. 3.77–78. A woman’s appeal to the Archon was probably implied in Dem. 41.4 and Menander’s *Epitrepontes*, which speak of the fathers as taking daughters away from their husbands. It is not necessary to accept this evidence literally, as, e.g., Lacey (1968, 108); Karabélias (2002, 146, n. 3) (who, however, correctly noted that no evidence exists to support this view); Bernard (2003, 63–64); Harris (2006, 315); Damet (2012, 169); Phillips (2013, 138); Harris (2015, 298, 310 n. 3), who pointed to the practice of *aphairesis*, which, in fact, applied only to women whose fathers had already passed away. Rather such references pointed to fathers instigating, or initiating, the divorces of their daughters; see Roy (1999, 9); Omitowaju (2002, 117) (with Hunter (1989, 297) for the same role of brothers), and it appears that daughters did not necessarily (have to) heed the advice of their fathers (and brothers): e.g., Cox (2006, 156). A distinction made by references to the woman leaving either her husband or his domicile seems to indicate that in the latter case the husband was dead; this looks like an established formula; cf. [Dem.] 43.75.
- 141 E.g., Sealey (1987, 112); Carawan (1998, 84).
- 142 Poll. 8.125, with, e.g., Humphreys (1991, 28–29); Carawan (1998, 115); Rhodes (2000, 119).
- 143 *IG I³* 104.11–13 (the reinscribing of Draco’s laws) and Arist. *Ath.Pol.* 57.4.
- 144 For the council of the Areopagus as predating Solon: Plut. *Sol.* 17.1–4, with Wallace (1989, 3–47); Boegehold (1995, 134); Roselli della Rovere (1999a, 146–147) (who presented the Council of the Areopagus as playing the function of averting blood feuds in cases of homicide). See page 82, n. 25.
- 145 *IG I³* 104 (409–408 B.C.); Dem. 23.51; Arist. *Ath.Pol.* 7.1 (on Draco’s homicide laws as the only surviving part of his overall legislation), and further evidence: e.g., Ael. *Var.Hist.* 8.10; Plut. *Sol.* 17.1 with general overviews by Busolt (1926, 807 n. 1); Miller (1905, 1649–1658); Stroud (1968, 54–56, 61–64); Harrison (1971, 37–38); Gagarin (1981, 21–29); Rhodes (1981, 109–112); Humphreys (1983, 233, 236 n. 13, 1991, 18); R. Develin, in *Athenaeum* 62 (1984), 300; Wallace (1988, 81–95); Hölskeskamp (1997b, 810–811, 1999, 262–263); Sickinger (1999, 15, 24); Gallia (2004, 452); Gagarin (2005, 119); Tsigarida (2006, 24 n. 8); Wallace (2007, 55); Westbrook (2008, 11–15); MacDowell (2012, 477).
- 146 Bourriot (1976, 295); see also a similar observation by Roussel (1976, 49 n. 36) (with parallels). Bourriot explained (296–297, 300) this situation as Draco’s desire to undermine the political, social, and juridical power of *genos*, while, in fact, his actual intention was just the opposite: see chapter 2.
- 147 E.g., Stroud (1968, 54–56, 61–64); Gallia (2004, 456). For the practice of retrospectively naming additional and modified laws after the original lawgiver, see, e.g., Clinton (1982, 30); Sealey (1987, 116); C. Carey, in *JHS* 116 (1996), 37; Thomas (2005, 41); Rhodes (2006, 248–250); Flament (2007, 301).
- 148 This view: Koerner (1993, 30 n. 4, 38) (with n. 45); Sickinger (1999, 18–19); Pepe (2012, 8–9) (with bibliography); cf. Westbrook (2008, 14–15), arguing that Draco’s legislation was of a comprehensive nature, but that the *anagraphēis* extracted all relevant rules on homicide and excluded any connected rules on other subjects. But this does not follow from the text of *IG I³* 104.

- 149 Cf. Harp. K 97 = Arist. fr. 390: Aristotle's *Athenian Politeia* referred to the *kyrbeis* carrying laws in the Royal Stoa. It is unclear, however, if the King was the keeper of all of the Athenian laws kept in the Stoa or only those pertaining to his responsibilities: Carlier (1984, 351 n. 152).
- 150 E.g., Tulin (1996, 24 n. d, 27 n. 50) (with extensive bibliography).
- 151 A connection between homicide trials and kinship appears to have been typical of other ancient Greek cities as well. According to Aristotle (*Pol.* 2.5.12, 1269a.1–3), an ancient law at Cumae convicted the defendant of the murder if the prosecutor produced a certain number of his own immediate relatives (*syngenon*) as witnesses.
- 152 E.g., Smith (2006, 120): on the “social fiction of kinship,” “social entities could be invented, and could be reinvented”; 138: on the “fictive kinship of *gene* and *phratries*.”
- 153 Children born in engytic marriages with *politai* “by decree”: see chapter 5 with appendix 3. Two wives: see nn. 74–77 above. Bastards: e.g., And. 1.126–127 (see n. 121 above). Eur. *Ion* 673 (see n. 1 above).
- 154 On bastards as having no place in *anchisteia*: Aristoph. *Av.* 1660–1666 (see n. 48 above); [Dem.] 43.51; Isae. 6.47.
- 155 For this typical approach to the *anchisteia* and the *syngeneia*, see, e.g., J. C. Miles, in *Hermathena* 75 (1950), 71; Harrison (1968, 143); Karabélias (1990, 67) (with n. 50); Pomeroy (1997, 19); Damet (2012, 41). Cf. Roy (1999, 2), who referred to *anchisteia* as the “legally defined kinship group.”

2 Solon's organization of the kinship community

His *axones* at once carried his soul to heaven, for by laws he gracefully established the lightest burdens for the *astoi*.

An epigram on Solon (*Greek Anthology* 7.87)

Among several problems posed by the reforms and laws linked by later Greek tradition with Solon's reorganization of Athens in the early sixth century, two are of immediate concern to the current examination. One of them is the question of the authorship of at least some of these reforms and laws,¹ which is closely connected with the challenge of verifying their authenticity. While it is not always possible, or necessary (for this study), to prove Solon's authorship of all the measures ascribed to him in the later tradition, we can at least be fairly certain about those that are directly relevant to the subjects discussed here. This book shares an optimistic view on the evidence, and authorship, of such laws and reforms ascribed to Solon in surviving sources.² The second problem directly pertinent to the current examination is the commonly accepted stance on Solon's measures as pertaining to the entire population of Attica. While it is true that his reforms and laws transformed the life of Athenian society as a whole, it will be argued below that Solon was actually focused on the kinship community of the *astoi* of Athens, as noted in the lines which form this chapter's epigraph. This perspective on Solon's activity, which has been overlooked in earlier studies, casts a different light on two old questions: What changed as a result of Solon's legislation, and why did Solon have to introduce the legislation? The first part of this chapter examines how and in what ways Solon reorganized the kinship community of Athens, while the second part reassesses the traditional vision of his reforms as undermining the status of the kinsmen by advocating the opposite: his reforms and laws were aimed at and served to both homogenize the kinship community and secure its privileged status in Athens by cutting across local, family, and clan divisions.

1. The reforms and laws of Solon

Solon laid down the principles of the organization and functioning of the kinship community, which were examined in the previous chapter, by establishing that its

membership was open only to legitimate (*gnesioi*) children, or those who were born in engyetic marriage. He defined *anchisteia* as membership in the group of *anchisteis*, or legitimate kinsmen, who were the only people in the city with the legal right to inherit a patrimony – including immovable property – to participate in religious activities of the kinship community, and to become members of its divisions (*gene*, phratries, and the four tribes). Some have already suggested that it was Solon who created what constituted legitimate descent in Athens.³ What they did not elaborate on, however, was that by laying down a new principle of selection which cut across local divisions and established uniform regulations for all *astoi*, Solon reorganized the kinship community and furthered its homogenization. It is from this premise that we should examine some of the most famous and important of Solon's laws – on guardians, heiresses, testaments, and adoptions.

The principle of legitimate descent not only separated kinsmen from non-kinsmen but also divided the children in the former group into legitimate (*gnesioi*) and non-legitimate.⁴ Draco did not make this distinction, as follows from one of his laws quoted by Demosthenes:

If a man kill another unintentionally in an athletic contest, or overcoming him in a fight on the highway, or unwittingly in battle, or in intercourse with his wife (*e epi damarti*), or mother, or sister, or daughter, or concubine kept for procreation of free children (*e epi pallake hen an ep eleutherois paisin ekhe*), he shall not go into exile as a manslayer on that account.

According to Susan Lape, “although the law differentiates between the wife and the concubine, it does not do so on the basis of the reproductive status of the female body.”⁵ More important, judging by this text, pre-Solonian law did not differentiate on the basis of the social and legal status of the offspring. This makes a remarkable contrast with the situation that emerged in Athens as a result of Solon's legislation, when, according to Apollodorus, Athenian males kept concubines for “daily care” of their persons and had wives to produce legitimate children and manage households.⁶ The principle of legitimacy further separated kinship and lineage.⁷ While *nothoi* still belonged to the individual households (*oikoi*) of their fathers after Solon's reforms, only *gnesioi* could legally inherit the patrimony and become enrolled in *gene* and phratries. Fathers had to swear a sacred oath that the children whom they introduced in those organizations were legitimate.⁸ Solon's reforms, therefore, established the difference not only between legitimate and illegitimate children, but also between *gene* and phratries that now admitted only legitimate kinsmen, or *anchisteis*, on the one hand, and *oikoi* that informally included kinsmen regardless of their legal status on the other.

This consequence of Solon's reorganization of the Athenian kinship community throws new light on many controversial subjects, including the understanding of *atimia*, which has usually been studied as a development from “outlawry” into a certain limitation on one's political and social capabilities, or, according to most studies, “disfranchisement.” By pointing out that *atimia* was extended to all members of the guilty person's family, regardless of their legitimacy, such studies

advocated that bastards also had citizenship in Athens, and in ancient Greece in general. The reason for this situation, however, was actually that *atimia* emerged before Solon's reforms established the principle of legitimacy for members of the kinship community. *Atimia* continued to be applied to all kinsmen of the *oikos* regardless of their legal status in the post-Solonian period (see appendix 1). The same is true for the Athenian attitude toward *moicheia*, which combined a broadly social and a narrow legal approach, with the former concerning all free female members of the *oikos*, thus falling under the definition of "seduction," while the latter focused on married women who were mothers of legitimate sons – legal heirs to the heads of Athenian *oikoi*, – thus coming closer to the modern concept of "adultery" (see appendix 2).

Solon's organization of the Athenian kinship community on the principle of legitimacy did not eradicate all the forms of inequality among the *astoi*. The republished laws of Draco show that the court of the ephetes, who tried cases of homicide under the oversight of the King, chose ten members of the victim's phratry according to their noble origins (*aristinden*).⁹ The four *phylobasileis*, the leaders of the four pre-Cleisthenic kinship tribes, continued to be comprised of "people of noble birth" (*ex eupatridon*) and resided with the King, even in much later times (Arist. fr. 385 [R] = Poll. 8.111). Such evidence shows that aristocracy was not the same as kinship community: that community consisted of both nobles and non-nobles. Solon, in fact, institutionalized this inequality by establishing the membership of the Areopagus Council – an old and venerable court for homicide cases, which also played an important political role – on the basis of excellence of origins and amount of personal wealth (*aristinden kai ploutinden*), in addition to a prudent way of life.¹⁰ Elsewhere, Aristotle (*Pol.* 2.9.4, 1274a.18–23) described Solon's approach in slightly different terms, saying that he appointed all the offices from "notable and wealthy" (*ek ton gnorimon kai ton euporon*), with reference to the top three census classes that Solon had established in Athens – the *pentakosiomedimnoi* (the "five-hundred measures" people), the *hippeis* (the "horsemen"), and the *zeugitae* (often translated as "yokemen"). The fourth class comprised the *thetes* ("laborers"), who had no share in any public office but did participate in popular assemblies and courts.¹¹ This measure has been interpreted as the beginning of citizenship at Athens.¹² Such interpretations, however, did not raise questions about what "citizenship" actually meant, or who could count as citizens in early sixth-century Athens. Nor did their authors ponder how members of the same group, whom they categorized as "citizens," could have different political rights or no political rights at all.¹³ Solon introduced the amount of one's personal wealth as a new qualifier for members of the kinship community: political rights were tied to the amount of individual property one owned. Aristotle also described this situation differently, when he said that Solon established a "mixed *politeia*" in which law courts operated in a democratic fashion, and officials were elected as if under the rule of aristocracy, whereas the Areopagus Council typified an oligarchy. Elsewhere Aristotle spoke of census on access to political rights as a necessary component of aristocratic (or oligarchic) regimes, while he and others, like Plutarch and Pollux, referred to Solon's four classes as census groups (*timemata*).¹⁴

The interrelationship between the four classes is not directly relevant to the purpose of this book. Nor is the problem of whether Solon established the four classes from scratch or by modifying the existing social division in some way.¹⁵ A much more important problem for the current examination is who the people were who formed these classes. The usual approach to this has been to say that they included the entire population of the city of Athens, or Athenian “citizens,”¹⁶ making no distinction between people of different kinship, legal, and political status. But if its members had different amounts of political rights, and some of them were expressly prohibited from occupying any political office in the city, how could Solon’s system of four classes embrace “citizens”? Even more important, how was “citizenship” defined at that time? And who was counted as a “citizen,” and why? Solon’s census classes appear to have been comprised only of the *astoi*, as follows from two observations. The first is the connection between census classes and engytic marriage, which we see in the above-quoted speech from the Demosthenic corpus: the law, ascribed to Solon, declared that heiresses of the thetes class should be either married by the nearest of kin or given by him in marriage, with a dowry whose amount depended on which of the four census classes he belonged. It was the Archon who supervised that this was done according to the law, which is not surprising since, as noted in the preceding chapter, that official took care of the well-being of members of the kinship community.¹⁷ The other observation leading to the conclusion that the census classes were comprised of the *astoi* is that those classes were established on the basis of how much land their members possessed:¹⁸ the right to own immovable property in the city belonged only to the *astoi* (see next chapter), and only engytic marriages, which were also exclusively reserved for the *astoi*, included offers of land as security for dowries.¹⁹

This situation appears to have been directly relevant to the ongoing debate about Solon’s alleged redivision of land in Athens. Corresponding discussions have typically examined this problem in connection with Solon’s establishment of the four census classes, thus implying that Solon redivided land proportionally, based on the amount of individual wealth held by members of each of the four classes.²⁰ However, although some available evidence might be interpreted as referring to Solon’s redivision of land, this evidence has no relevance to the system of the four census classes. The Athenians evidently kept the same amount of land before and after Solon’s reforms, and this amount served as the (major, though unlikely the only) basis of the system of the four classes he introduced.²¹ What changed as a result of Solon’s reforms was the approach to an individual’s status: since only legitimate children could have immovable property according to Solon’s laws, non-legitimate members of the kinship community, or *nothoi*, were deprived of their immovable possessions, which could be presented as a form of redivision of land.²²

Even if some of Solon’s reforms – such as filling offices on the basis of the census classes and “broaden[ing] the membership of the Areopagos” (Wallace 1989, 53) – can be presented as promoting equality, what remains the same is that offices and membership on the Areopagus Council were only open to the *astoi*. By adding personal wealth as a qualifier, and by introducing the principle

of legitimacy, Solon effectively brought all of the *astoi* together as a single social group. These steps, which cut across their territorial, clan, and household divisions, provided a new basis for self-identification and reflected his purpose of homogenizing the Athenian kinship community, and of further distinguishing it from the rest of the population of Attica. This perspective casts a new light on various measures authored by Solon, or ascribed to him by later authors. For example, Solon's reform of the Areopagus Council has been interpreted as a restriction imposed "upon the autonomy of the ruling families in favour of the *demos*, or at least a triumph of legal process over self-help."²³ While correct overall, this observation needs to be adjusted in the sense that, according to Solon's reforms, the Areopagus cut across the borders of individual families of the *astoi*, both because its members were recruited from the entire kinship community and because its decisions on cases of intentional homicide were valid for that community as a whole. Draco took the first step in this direction when he established the body of fifty-one tribal representatives as ephetes, who – in cases where the victim of a homicide had no surviving kinsmen – selected members of the victim's phratry to decide the question of the killer's intent and, accordingly, the settlement.²⁴ The decision on the case's outcome was made by the people who did not belong to the household of the victim, but they still belonged to his phratry. Solon expanded it to the entire kinship community through his reform of the Areopagus and by establishing, or reforming, the court of the Heliaia.²⁵ Solon also homogenized the Athenian kinship community in other ways. According to his laws – as described by Aristotle (*Ath. Pol.* 7.3) and Plutarch (*Sol.* 18.2) – members of all four census classes, including the thetes, had the right to serve as jurors on law courts (*dikasteria*) and to participate in the popular assembly.²⁶ Since his four census classes were comprised of the *astoi*, they were the only people in the city who had access to jury courts and assembly participation. Solon thus established the legal and social equality of the kinship community.

Once all members of the kinship community could judge and be judged by any other member regardless of their individual *oikoi* and phratries, Solon also had to provide them with corresponding legal instruments. Besides private suits (*dikai*), which existed before Solon and only concerned the person involved and members of his household,²⁷ Solon is generally thought to have instituted public suits, such as *eisangeliai* and *graphai*, which could be initiated by "any willing person" (*ho boulomenos*).²⁸ This evidence has created a modernizing impression that the right to file such suits now belonged to any Athenian resident, or any "citizen" of Athens.²⁹ However, even in much later times homicides were settled by private oral suits (*dikai*), never by public and written *graphai*.³⁰ Such evidence suggests that Draco's legislation was only intended for members of Athens' kinship community (see preceding chapter), and that the earliest oral laws of Athens only applied to kinsmen (see chapter 4). Public suits were filed against harm to orphans, to *epikleroi*, and to estates belonging to orphans, as well as against the maltreatment of parents by their children, and for those who were accused as madmen and spendthrifts,³¹ all of which concerned the property and interests of the Athenian kinship community, and, accordingly, its members.

Evidence from Plutarch (*Sol.* 18.6; see also Arist. *Ath.Pol.* 8.4) showing that Solon's reforms gave Athenians the right to act as voluntary prosecutors and submit public accusations with the intent to prosecute legally, or the *eisangelia*, leads to a similar conclusion. The use of the concept of *eisangelia* in references to Solon could be anachronistic, since this word is absent in the surviving contemporary evidence about his legislation.³² But even if later sources used the concept of *eisangelia* in retrospect, they still confirm that Solon's laws allowed the *astoi* to speak, and prosecute, on behalf of those who belonged to other clans and *oikiai*. Likewise, the regulation quoted in [Dem.] 43.54 (see page 55, n. 137) included the provision that any willing person (meaning, any *astos*) could go before the Archon to denounce any other *astos* who disobeyed Solon's law on heiresses. By providing all *astoi* with the right of voluntary prosecution on behalf of any member of the kinship community, i.e., not only on behalf of immediate relations and slaves from the same *oikos*, Solon effectively undermined territorial, clan, and household divisions among the *astoi*, serving the double purpose of homogenizing the kinship community and further separating it from the rest of the population of Attica.

Another legal right ascribed to Solon was the *epheisis*. Although its precise meaning is still being debated, the *epheisis* has generally been interpreted as the right to appeal judicial decisions by resubmitting the case for another hearing – not before a magistrate, but before the court, as follows from these texts:

(Arist. *Ath.Pol.* 9.1): The three most democratic features in Solon's constitution (*politeia*) seem to be these: first and most important the prohibition of loans secured upon the person, secondly the liberty allowed to anybody who wished to exact redress on behalf of injured persons, and third, what is said to have been the chief basis of the powers of the multitude (*to plethos*), the right of appeal to the jury-court (*he eis to dikasterion epheisis*).

(Plut. *Sol.* 18.3): Even in cases which Solon assigned to the magistrates for decision, he allowed also appeals to a popular court when any one desired it (*eis to dikasterion epheiseis edoke tois boulomenois*).

Post-Solonian courts were comprised only of the *astoi*, because only they were members of his four census classes. Therefore, any willing Athenian *astos* could not only exact redress on behalf of any other *astos*, but could also expect to be judged by any other member of the Athenian kinship community, regardless of their territorial, clan, or household affiliation. Instead of being a pro-democracy step, as it has been usually understood on the basis of references by Greek authors who reflected a later point of view,³³ this measure served to promote the equality of the *astoi*, helping to both homogenize the kinship community and reemphasize its distinct place in Attica.

This purpose behind Solon's reforms is most visible in his law on the status of heiresses (see chapter 1). Ancient and modern authors alike compared Solon's laws with the legislation of Charondas in Catana, Sicily – dated broadly to the period from the mid-seventh to the late sixth century – which included clauses

about the protection of heiresses.³⁴ Diodorus (12.18.3–4) supplies the following touching story, when he says that one of Charondas's laws

had to do with heiresses (*ton epikleron*) and is also found in the legislation of Solon. Charondas ordered that the next of kin (*ton engista genous*) be assigned in marriage to an heiress and that likewise an heiress be assigned in marriage to her nearest relative, who was required to marry her or, if she were poor, to contribute five hundred drachmas as a dowry of the penniless heiress (*te penikhra epiklero*). And a certain orphan who was an heiress, of good birth (*eugenes*) but altogether without means of support and so unable by reason of her poverty to find a husband, turned to the people for aid, explaining to them with tears how helpless and scorned she was; and she went on to outline the revision of the law whereby, in place of payment of five hundred drachmas, it should specify that the next of kin (*ton ankhista genous*) be required to marry the heiress who had been assigned to him. The people took pity on her and voted for the revision of the law, and thus the orphan escaped the peril which threatened her from the noose, while the nearest of kin (*ho d'ankhisteus*), who was wealthy, was compelled to take to wife a penniless heiress (*penikhran epikleron*) without a dowry (*aneu proikos*).

This text is very important to our knowledge of life in the kinship community in Catana, and in Athens as well.³⁵ We need, therefore, to take a closer look at it. Diodorus's reference to a "penniless heiress" shows that the basic meaning of the concept of "heiress" was not just a woman who inherited the property of her deceased father but, first and foremost, a woman who belonged to the kinship community. As such, the heiress might have nothing at all, as shown by this and other ancient texts.³⁶ The same conclusion follows from Solon's law: unless the *kyrios* (that is, the nearest available kin on the father's side) preferred to marry an heiress who belonged to the thetes class, he had to provide her with a dowry commensurate with the amount of property he possessed.³⁷ We certainly know of cases where men sought out and even competed for the hands of heiresses with hefty possessions.³⁸ However, at least on the level of the kinship community as a whole, the importance of an heiress lay in the fact that she was an *aste*, and if she happened to inherit little or nothing at all, and if her nearest kin declined to marry her, then he had to provide her with a dowry and marry her to someone else – to uphold the kinship community. The story of Diodorus also accentuates the meaning of *anchisteia* as the right to inherit and/or marry an heiress on the basis of kinship proximity, thus pointing to *anchisteia* as an institution reserved exclusively for the kinship community.

This explains what might at first seem to be puzzling in Diodorus's story – why did the orphan not just take five hundred drachmas and use the money to find a husband? The answer is that it was not the availability of money or males as such that mattered, but the need for an heiress to marry within the kinship community. The presence of a dowry alone did not guarantee her such a marriage. This is what that smart, but probably not physically attractive orphan explained to the

“people,” who were, in fact, the *astoi* of Catana: even if she had the money, she was still in danger of never getting herself a husband from among the members of the city’s kinship community, and thus she would not be able to produce legitimate children. Since it was unlikely that she was the only person in that position, the message she tried to convey was that the very survival of the kinship community was under threat. It is this threat, rather than the pitiful situation of one individual orphan, which allegedly led to the change of laws in Catana: the nearest paternal kin was required to marry an heiress, since it was possible that no *astos* would agree to marry her even if she had a dowry.

Solon established a similar law in Athens, obliging the nearest of paternal kin to either marry an heiress or marry her to someone else, with a dowry commensurate with the amount of his wealth. As observed by Apollodorus, “for as things are now, even if a girl be poor, the law provides for her an adequate dowry, if nature has endowed her with even moderate comeliness.” Plutarch appears to point to this situation when he says that Solon strove to help a marriageable maid who was in need of a husband (*parthenon nymphen andros deomenon*). And this was, evidently, the purpose behind Solon’s setting up strict limits on the size of dowries (*phernai*) in all marriages except those that involved *epikleroi*. Although such restrictions might not necessarily have been observed in later times, this information is puzzling when taken at face value. Dowries clearly varied in size, as confirmed by the above-mentioned Athenian law, also ascribed to Solon, that established the size of the dowry as proportionate to the income class of the dower. It is hard to follow the opinion of Leduc, Wagner-Hasel, and Hawke that imposing limits on the size of *phernai* was an attempt to halt the fragmentation of landed estates.³⁹ A more plausible explanation, suggested by Robertson and Vêrilhac and Vial, has been to see this as a restriction only on the bride’s personal items, or trousseau. This is the interpretation of the word *pherne*, which has been juxtaposed with *proix*, or a dowry in the form of money.⁴⁰

Solon’s law on heiresses, which looked similar to the law of Charondas, thus helped to revitalize and strengthen the kinship community. Although the laws from Athens and Catana have been interpreted in a general sense – as referring to the legal protection of all female orphans – these laws were really only concerned with the kinship communities in those cities.⁴¹ Their purpose was to cut across clan and familial affiliations. By forming the orphaned *astai* into the class of heiresses and protecting their interests, these laws facilitated marriages of the *astai*, with the aim of ensuring the survival of the kinship community as a whole.⁴²

A corresponding situation, although in a somewhat different form, existed on Crete, where the so-called Gortyn Law Code (dated roughly to the late sixth and early fifth century) stipulated that daughters were expected to receive not only dowries but also a part of the inheritance.⁴³ The Law Code, therefore, required that a woman receive a dowry not (only) by her father’s will but by law, thus facilitating marriages among members of the kinship community and strengthening its position in the city. This also turns out to have been the purpose of another famous law of Solon’s, concerned with the appointment of guardians (*kyrioi*) for

Athenian women. A speech from the Demosthenic corpus quoted this law in the following fashion:

If a father or brother born of the same father or grandfather on the father's side betroths any woman on just terms (*engyese epi dikaios*), her children are legitimate (*ek tautes einai paidas gnesious*). But if none of these kinsmen is alive, if she is an heiress (*epikleros*), she will have a *kyrios* (*ton kyrion ekhein*), and if she is not, her *kyrios* will be anyone to whom she entrusts herself (*hoto an epitrepse, touton kyrion einai*).⁴⁴

This evidence can, and did, create a false impression that if a woman was not an heiress, she could choose absolutely anybody as her guardian. However, as argued in the previous chapter, only *astai* – women belonging to the kinship community – were supposed to have guardians, even though, in practice, not all of the *astai* had them. Prostitutes (e.g., Athenae. 13, 572a) or concubines (e.g., Menander, *Perikeir.* 497–498) actually had no *kyrioi* and acted as their own masters. However, a guardian was essential not only when a woman was married as an heiress in *epidikasia* but also for any engytic marriage. These were the only marriages to produce legitimate children and legally allowed a woman to transfer immovable property from her natal family to the marital *oikos*, whereas only legitimate children could inherit this property, which, in the end, belonged to the kinship community at large. Hence, if an *aste* had no immediate paternal relatives, she was to be provided with a guardian by the Archon (Arist. *Ath. Pol.* 56.6) or, more correctly, the Archon was to establish who had to be her *kyrios*. This is the meaning of “she will have a *kyrios*” in the above-quoted passage.⁴⁵ The meaning of “her *kyrios* will be anyone to whom she entrusts herself” creates a puzzle. A woman who was not an heiress must have had some male paternal relative who was controlling the property of her deceased father and who, for this reason, was expected to be her *kyrios*, at least until such time as she was married and passed into the guardianship of her husband. Offering a choice to her probably reflected an unwillingness on her part to be under the *kyrieia* of that person. However, even when a woman was not an heiress – and, thus, she had no immediate connection to the estate of her family – her guardian of choice still had to be from among her paternal relatives, because this was a necessary condition for arranging an engytic marriage and, consequently, producing legitimate children (see chapter 1). Therefore, a woman could probably have a choice of the *kyrios* if she was not an heiress and if more than one of her paternal relatives was alive. Her *kyrios* did not then have to be her closest *anchisteus*, but her choice was still limited to male relatives on her father's side.

Similar limits were evidently imposed when the marriage took place. This is what Solon meant when, according to Plutarch, he prescribed that “an heiress, in case the man under whose power and authority she is placed by law is himself unable to consort with her, was to be married by one of his next of kin (*hypo ton engista*)” and that “the heiress may not choose her consort at large, but only from the kinsmen (*ton syngenon*) of her husband, that her offspring may be of his

family and lineage (*tou genous*).⁴⁶ Solon had the interests of the kinship community in mind when he introduced that law. In a similar fashion, according to the Gortyn Law Code, the next option for an heiress (*patroiokos*) who did not want to marry her groom-elect, or whose groom-elect did not want to marry her, was to marry someone from the same tribe. This condition shows that the tribe was a kinship organization in Gortyn at that time, just like the four tribes in pre-Clesithenic Athens (see chapter 6). Only after it was established that no one eligible from that tribe was going to marry her could she opt for a marriage with someone from outside the tribe. However, even when the choice of candidates was expanded beyond the tribe, it was still limited to members of the kinship community.⁴⁷

This observation applies equally to Solon's laws on testaments and adoptions.⁴⁸ They have also received a modernized interpretation in the sense that it is commonly held that any Athenian could adopt anybody and leave him as his successor, thus constituting "a move on behalf of the private rights of the individual or the individual household against the claims of lineage or clan."⁴⁹ This is the impression one receives when going through the corresponding evidence:

(Dem. 20.102): Solon established a law granting the right to give one's property to whomever one wishes (*exeinai dounai ta heautou ho an tis bouletai*), provided that one has no legitimate children (*ean me paides osi gnesioi*). His aim was not to deprive the closest relative of the right to inherit but to encourage people to compete in doing good for each other by making this benefit open to all.

(Hyper. 5.17): The law dealing with wills . . . allows a man to bequeath his property as he wishes ([*exein*]*ai ta heautou [dia]tithestha[i hopos an] tis bouletai*) unless he is affected by old age, illness or insanity, and provided he is not influenced by a woman or imprisoned or otherwise coerced.

(Plut. *Sol.* 21.3): Before his time, no will could be made but the entire estate of the deceased must remain in the clan (*en to genei*). Whereas he, by permitting a man who had no children (*ei me paides eien auto*), to give his property to whom he wished (*ho bouletai*), ranked friendship above kinship (*syngeneias*) and favor above necessity, and made a man's possession his own property.

Solon's laws on testaments and adoptions certainly undermined the status of individual *gene*. However, contrary to generalizing interpretations of these laws as promoting and protecting the personal freedoms and interests of individual families,⁵⁰ their effect appears to have been quite constrained. The application of these laws turns out to have been limited to members of the Athenian kinship community, which is revealed in more than one way. The right to adopt was curtailed if the person had children, and not just any children, as one might think when reading Plutarch, but legitimate (*gnesioi*) male children, as indicated in the above-quoted speech of Demosthenes and in the following excerpts:

(Isae. 2.13): Please read for me the law that says that a man is entitled to dispose of his own property in whatever way he likes (*hopos an ethele*), as long as he has no legitimate male children (*ean me paidas arrenes osi gnesioi*).

(Isae. 6.28): The law itself assigns a father's property to his son and does not even allow someone who has legitimate children (*paides gnesioi*) to make a will.

(Isae. 10.9): As long as he had a legitimate (*gnesiou*) son, Demochares, he would not have wanted to do so [i.e., to make a will], and he was not allowed to bequeath his property to another.

([Dem.] 46.14): Everyone who had not been adopted when Solon entered on his archonship in such a way that he could neither renounce nor claim the inheritance is permitted to dispose of his own property, however he wishes (*hopos an ethele*), provided he has no legitimate sons (*an me paides osi gnesioi arrenes*) (cf. 57.53).

Furthermore, even if the adopter had no male *gnesioi* children, adoption was further hindered by his obligation to take care of legitimate (*gnesiai*) female children, as illustrated by Isae. 3.68:

The law expressly states that if a man does not leave legitimate male children (*ean me paidas gnesious katalipe arrenas*), he is entitled to dispose of his property in whatever way he chooses, but if he leaves daughters, he must dispose of them together with it. So a man can leave and dispose of his property along with his daughters, but he cannot either adopt or leave any of his property to anybody including his legitimate daughters (*ton gnesion thygateron*).

The legitimate daughters were considered together with the property, as Isaeus repeats in 3.42 ("no one has the right to devise or dispose of any of his property without also disposing of any legitimate daughters whom he may have left at his decease") and 10.13. Therefore, according to Solon's law on adoption, a legitimate daughter was inherited together with the estate. The same follows from the speaker's reference in Isae. 3.41 that adjudicating an inheritance without the disposal of a legitimate daughter effectively turned her into a bastard, affirming that bastards had no right to inheritance. Such references show that Solon not only established the special status of legitimate (*gnesioi*) children, but also introduced regulations that protected their economic and social rights. Since adoption was about a transfer of property, illegitimate children, or bastards (*nothoi*), were not considered because they could not inherit (see chapter 1).⁵¹

The link between the status of a legitimate daughter and the immovable property of the household explains the nature of engytic marriage as a loan in the sense that if the woman was divorced, the dowry had to be returned to the original family just as she did. This had nothing to do with the practice of gift giving that

we see in Homeric epics,⁵² but with the organization of a kinship community that protected the well-being of its members. This is the reason that the Archon took care of the estates of legitimate children who became heiresses and orphans. It was possible for a man to retain what he had received as a dowry if his wife turned out to be a non-*gnesia* and, therefore, not eligible for engyetic marriage (see below). The available evidence shows that marriage and dowry in ancient Athens should be examined with reference to the status of parties involved.

While Solon's law on adoption made it legal for the Athenian *astoi* to adopt from outside their households and clans, the circle of those who could be adopted was still limited to members of the kinship community, because only legitimate children (*gnesioi*) could inherit from the *astoi*. Similar to the engyetic marriages of the *astoi*, which remained oral agreements regulated by custom for centuries (see chapter 4), adoptions were private and oral arrangements.⁵³ Plutarch's *Life of Solon* 21.3 (see above) and references by Athenian orators show that the adoptees were usually relatives of the adopters (see below). The ancient custom, which predated Solon's reforms,⁵⁴ held that if someone died intestate, his property remained in the *genos* and the succession was established according to *anchisteia*,⁵⁵ which constituted the essence of the so-called posthumous adoption.⁵⁶ Even in cases of adoption by will, close relatives commonly disputed the status and inheritance right of adopted children.⁵⁷ It is only when there were no close relatives available for adoption (Isae. 2.20) or when the person specifically did not wish to leave anything to his close relatives ([Dem.] 59.57–58: *syngeneis* or *oikeioi*) that the adopter chose an adoptee from a broader circle of his relations. However, even in such cases, adoptees were still members of the kinship community. Hence, fathers had to swear a sacred oath that the sons they introduced in *gene* and phratries were *gnesioi*, regardless of whether those sons were naturally born to them or adopted. According to Isaeus, *gene* and phratries had a similar law (*nomos*) that

when a man introduces his son, whether natural or adopted (*ton poieton*), he swears an oath with his hand on the sacrificial victims that he is introducing the child of an *aste* and born in wedlock (*gegonotha orthos*), whether it is his natural son or an adopted one.

The latter expression, which referred to engyetic marriage, showed that, regardless of whether born to the person who was introducing him or adopted by him, the son was always a *gnesios*.⁵⁸

Many have already observed that adoptees were legitimate children (*gnesioi*), although typically identifying their status as “citizens,” and that such people were either close relatives of the adopters or connected to them by *anchisteia*.⁵⁹ This situation also explains that inheriting the patrimony from an *astos* was sufficient proof of being a *gnesios*. For instance, Euxitheus built an argument that he was neither a bastard nor an alien by reminding his listeners that he had inherited his father's property.⁶⁰ Menander's *Dyscolos* (731–732) describes a typical case, when the misanthrope Cnemon adopted his relative Gorgias, son of his wife by her previous marriage, and entrusted his household and his young daughter to

him. Demosthenes provides us with another such case. According to him, the estate of Archiades was inherited not by his brother (Meidylides), as the nearest of kin, but by his great-nephew Leocrates, who claimed to have been adopted by Archiades. Leocrates then passed this property to his (adopted) son Leostratus, who then gave this property to his (adopted) son Leocrates II. Once the latter died without establishing a successor, Leostratus wanted to pass this property to his other (adopted) son, but was challenged by a certain Aristodemus, who claimed the estate of Archiades by currently being his nearest of kin. The speaker, Aristodemus's son, warned the judges that Leostratus's party would base their defense on the fact that they "were adopted and would rightly inherit the estate as legitimate sons" (*kata ten ankhistean gnesioi ontes*) ([Dem.] 44.6). The adopted children were *gneshoi*, even if they were not born to Archiades in engyetic marriage, and even if they did not stand in close kinship proximity to him. Elsewhere, Demosthenes (41.3) mentions a certain Polyeuctus, of the deme Teithras, who, having no male children, adopted his wife's brother as his son and heir and gave him his younger daughter as wife. Another speech from the Demosthenic corpus ([Dem.] 43.12) refers to Eubulides who had no male children of his own and, therefore, wished that "a son of his daughter be adopted into his own household (*ton oikon*) and that of Hagnias and should be introduced to the members of his phratry."⁶¹

A similar situation displays itself in the earlier-mentioned speech by Isaeus on the estate of Apollodorus (Isae. 7.16), which refers to the law that anyone who introduces a son, whether his own or adopted, into a *genos* and a phratry should swear an oath that he was introducing a legitimate child (*gneshios*). The speaker, Thrasyllus, who had been adopted by Apollodorus, was a son of his half-sister and a grandson of one of Apollodorus's uncles. Thrasyllus, therefore, was an adopted *gneshios*. Isaeus's speech on the estate of Menecles tells how, having no male children of his own, Menecles approached the speaker and his brother and said that (Isae. 2.11)

he thought it a good thing, since fate had decreed he should have no children by our sister, that he should adopt a son from the family (*oikia*) out of which he would have wanted to have children naturally (*physei*).

This is how the speaker became the adopted son of Menecles, because Menecles "had no other relative (*syngene*) from whose family he could have adopted a son" (2.20). The speaker asserted that the adoption was carried out "in a legal manner" (*kata tous nomous*) and referred to the law "which ordains that a man can dispose as he likes of his property, if he does not possess legitimate male children" (*ean me paides arrenes osi gnesioi*) (2.13). He then explained that "the lawgiver legislated thus, because he saw that for childless persons the only refuge for their solitary condition, and the only possible comfort in life, lay in the possibility of adopting whomsoever he wished" (2.13), meaning, of course, Solon's law on adoptions.

The main purpose of this law was, therefore, not that a childless man – i.e., one who had no legitimate male children – could do whatever he pleased with

his property, nor that he could adopt absolutely anybody. Solon's law allowed people who had no legitimate (*gnesioi*) male children of their own to adopt someone else's legitimate sons, and then to introduce these adopted children into their *gene* and phratries, which should not be a problem since the adoptees were *gnesioi*. In the case of the adopted son of Menecles, for example, the adoption was confirmed by the members of Menecles's phratry, deme, and the *orgeones* (Isae. 2.17). This only means that the adoptee, who made the speech, was a *gnesios*, and as such he had the right to be adopted by a *gnesios* and to inherit the property of his adoptive father. Because adopted sons belonged to the kinship community, they were to be registered before the Archon (e.g., Isae. 6.35–36) – who was in charge of the kinsmen, as we have seen in the previous chapter – and were typically expected to marry the adopters's daughters or, at least, to take charge of them as guardians.⁶² By virtue of being members of the kinship community, the adoptees were expected to perform the necessary sacrifices and religious rites on behalf of the households into which they had been adopted (Isae. 2.10, 7.30–31).⁶³ Accordingly, evidence on adoptions neither does nor can support the view that non-*gnesioi* became members of phratries.⁶⁴ This view appears to have been derived from the same modernizing perception that, like today, anybody could adopt anybody in post-Solonian Athens.

The Gortyn Law Code reflected a similar situation on the island of Crete. Some have juxtaposed this Law Code with Solon's legislation on the grounds that, unlike the latter, the Law Code imposed no restrictions on adoptions when the adopter had children.⁶⁵ Yet, Solon's law included a similar provision: the above-quoted references by Isaeus and Demosthenes to Solon's law on adoption correctly specify that Solon allowed adoption by people who had no legitimate male children, i.e., not those who lacked any children. A much later author, Plutarch, who did not see this difference, interpreted Solon's law as a uniform regulation. Since Solon's law allowed adoption by people who had no legitimate male children, adoptions were possible when there were legitimate daughters (Isae. 3.42, 68; 10.13). Someone with legitimate daughter(s) did not have to adopt a son, however. If he preferred to avoid adoption, then he could, evidently, register his legitimate daughter in his phratry, thus indicating that she was going to be his heir (e.g., Isae. 3.73). Aristophanes (*Av.* 1653–1654) describes this situation when he says that the goddess Athena counted as the heiress of Zeus because Heracles was a bastard (*nothos*). If adoption did take place, the adoptees were supposed to act as guardians for, and were often expected to marry, daughters of their adoptive fathers, as we have seen above. The latter condition – which is itself proof that the adoptees belonged to the *astoi* – ensured that the grandchildren of the adopter would be *gnesioi* and eventually inherit his property. The same attitude explains the provision that if the adoptee died or departed without leaving *gnesioi* children in his place, the property passed to the adopter's nearest kin. This provision existed both in Athens (e.g., [Dem.] 44.21) and on Crete, as we shall see below.

Similar to Solon's law on adoptions, the Gortyn Law Code had a broad reference that a Gortynian could adopt anyone he wanted.⁶⁶ This clause has likewise been interpreted in the sense that bastards (*nothoi*) and aliens also could be

adopted and, consequently, enrolled in the relevant social organizations in Gortyn.⁶⁷ According to the Law Code, adoptees were to be adopted “like *gnesioi*,” which has been understood to mean that the adopted person was not always counted among *gnesioi* or, in other words, legitimate children.⁶⁸ However, the Law Code (*I.Cret.* IV 72, col. XI.6–10) then prescribed that if the adopted son died without leaving *gnesioi* children, the property was to return to members of the kin (*epiballontes*) of the adoptive father.⁶⁹ The implication was that although the adopted son was not a natural-born legitimate son (*gnesios*) of the adoptive father (and, therefore, he could only be adopted “like *gnesioi*”), he was still a member of the kinship community of the city – since he was able to beget *gnesioi* children of his own.⁷⁰

Solon's law on adoptions likewise postulated that the adopted children (or “created children”: *poiatoi paides*, as in Harpocration) could not go back to their original families without first leaving legitimate children in the family of the adopter,⁷¹ and that if the adoptee left no *gnesioi* children in his place, the adopter's estate returned to his legitimate blood relatives: *epiballontes*, as in Crete, or the *oikeioi*, as in Athens ([Dem.] 44.68).⁷² It appears that those adoptees who wanted to go back to their natal families could leave behind not only their naturally born legitimate sons but also adopted sons, who, as we have seen above, belonged to the *gnesioi* as well. The speech on the estate of Archiades discussed above refers to three successively adopted sons who held that estate one after another, depriving the late Archiades's closest kinsmen of their inheritance. According to the speaker, this was done “contrary to the laws,” and his words have been accepted as correct.⁷³ However, the fact that the closest relatives only raised a claim to the estate after the last of the three adopted sons died without leaving a successor casts doubts on the speaker's statement. It also appears that the only law that the speaker adduced ([Dem.] 44.64) in support of his assertion that the “lawgiver forbade a person who was himself adopted to create a son by adoption” merely stated that “a man may depart [his adoptive *oikos*, only] leaving behind him a legitimate (*gnesion*) son.” Thus, the law only said that the son had to be legitimate, which implied that he could be adopted, i.e., just like the very person who had been adopted in the first place and who now planned to leave a *gnesios* son as his replacement before himself returning to his natal *oikos*. Nothing here says that the successor could only be a natural-born son, and the speaker had to insist that his interpretation was the only possible one.

This case illustrates, among other things, one of two major problems in examining the functioning of the Athenian kinship community and its organization by Solon: some of the sources contain purposeful misinterpretations of corresponding laws by speakers who were advancing their own interests. The other problem is that many sources provide information of a general nature, which should then be evaluated against other available evidence. For example, while some texts refer to the right of Athenians to adopt anybody, other texts point to this right belonging only to those who had no male *gnesioi* sons of their own. Likewise, not every relevant text makes clear that adoption was conditional if the adopters had *gnesiai* daughters whose well-being was to be protected, or that adoptees could only be

selected from among the *gnesioi*. Both in Athens and on Crete, the distinction was not made between *astoi* and non-*astoi*, but between *astoi* as immediate blood relatives, i.e., members of the same clan and family, and as members of the kinship community at large. Isocrates (19.49) points to the same situation when he says that it is because of the law on adoptions that clansmen (*syngeneis*) and those who were not relatives (*hoi meden prosekontes*) took greater care of each other. In pre-Solonian Athens, adoptees could only be chosen from among the *syngeneis*. As a result of Solon's reforms, any *astos* could be an adoptee, although the Athenians still tended to adopt either close or distant relatives. This was another way in which Solon homogenized the kinship community of Athens.

Writing much later, Plutarch, again, misinterpreted a similar regulation in Sparta. According to him, one of the ephors, who allegedly had a grudge with his son, introduced a law "permitting a man during his lifetime to give his estate and allotment to any one he wished (*ho tis etheloi*), or in his will and testament so to leave it." This right, which Plutarch and modern commentators on his text presented in generalized terms,⁷⁴ was in fact limited to members of the community of the *homoioi* in Sparta. Such evidence suggests that not only Athens but various other Greek states followed the same path, cutting across the limits of individual households and clans in order to avoid the extinction of individual *oikoi*, thus strengthening the kinship community as a whole.

It is from this premise that Solon's other innovations should be evaluated, including his reorganization of the *Genesia*, a festival venerating the dead, which Solon instituted by transforming private cults into a joint veneration that brought together individual *oikoi*.⁷⁵ Following the opinion of Felix Jacoby, this reorganization has been interpreted as undermining the position of individual *gene* by establishing a "*polis*-cult."⁷⁶ While the first part of this interpretation can be provisionally accepted, the second should be corrected in the sense that the transformed *Genesia* did not bring together all of the residents of the city of Athens but only members of its kinship community, who were organized into *gene* and *oikoi*.

Greek authors did not always clarify that laws on guardians, heiresses, and adoptions were exclusively concerned with the kinship community: earlier writers often thought it unnecessary to specify what was self-evident to their contemporaries, while later authors, like Plutarch, missed this important nuance since the position of the kinship community had been significantly transformed by that time. Generalized references to these regulations give a false impression that they were applicable to everybody, regardless of his or her status in the city. For example, according to Athenian custom, the herald announced whether anyone wished to claim the estate of the deceased person, either by kinship or by will ([Dem.] 43.5: *e kata genos e kata diathekas*). Since the former expression refers to succession by kinship, this passage can be interpreted in the sense that non-relatives, including bastards and aliens, also could also inherit and consequently become enrolled in the city's social organizations. The general character of this phrase is, therefore, reminiscent of the above-quoted excerpts referring to Solon's regulation that a person with no legitimate male children could dispose of his property as he willed, and that a woman who was not an heiress could

entrust herself to the *kyrios* of her choice. However, *kata diathekas* most certainly referred to people adopted by will.⁷⁷ And since, as we have seen above, only *gnesioi* could be adopted, the phrase *e kata genos e kata diathekas* shows that the distinction was being made between people occupying different levels of kinship proximity – either close relatives or more distant kinsmen, or members of the kinship community at large.

This is also the reason that those who had been adopted by will obtained their inheritance through the procedure of *epidikasia*, which was used for adjudicating the inheritance of orphaned *gnesiai* daughters.⁷⁸ Regardless of whether someone was succeeded by his immediate relatives, members of the same clan (*gennetai*), or his adopted son from among members of the kinship community as a whole, non-*astoi* such as aliens or bastards could not inherit the property of the *astoi*. Overcoming the generalizing interpretation of Solon's law on testators with no legitimate male children (Isae. 2.13; [Dem.] 46.14) explains the comic situation in which Heracles found himself in Aristophanes's *The Birds* (Av. 1660–1666), which was examined in the previous chapter. Contrary to Heracles's expectations, the provision “if there be no legitimate children” did not mean that bastards could inherit. The property then passed to the next of kin or an adopted son, who belonged either to the same clan, or family, or the kinship community overall.

Unlike later Greek authors (such as Plutarch) and modern scholars, Solon's contemporaries did not generalize statements that a man with no children could “give his property to whom he wished” (Plut. *Sol.* 21.3) or that an *aste*, who did not count as an heiress and had no male relatives, could have as her *kyrios* “anyone to whom she entrusts herself” ([Dem.] 46.18). In cases involving the well-being of the kinship community – and this was the ultimate concern of Solon's regulations – choices were limited to members of the kinship community. Solon's legislation in Athens and other similar laws elsewhere expanded choices from individual households to the entire kinship community, thus cutting across familial loyalties while serving to homogenize this community and make it stronger.

2. Solon's reforms: A reappraisal

Modern interpretations of Solon's reforms have presented his laws as purposefully undermining the special place of the kinship community by putting individual interests above those of a clan and giving preference to friendship over kinship. The common perception has been that he liberated individuals from the constraints of kinship relations and freed citizens from the control of the *gene*. This view, first specifically advanced by Gustave Glotz, has been supported in one way or another in many studies on Solon's reforms and the political and social development of Athens.⁷⁹ Since Glotz believed that the domination of Athenian *gene* was rooted in property, he interpreted Solon's laws concerning property as being aimed against *gene*.⁸⁰ However, when such laws are examined together (like those on succession, heiresses, guardians, testaments, and adoptions), it appears that their ultimate target was the control and transfer of family property within the confines of the Athenian kinship community as a whole. Solon's reforms, in fact,

homogenized the kinship community and reinforced the special position of its members among the Athenian population.

Other developments in this field were not radical departures from established customs of the kinship community, as some have suggested. These concerned the *kyrioi* being prohibited from selling or pledging the possessions of their wives and mothers, which we see not only in Athens but also in the Gortyn Law Code:

Nor may the husband alienate or pledge the possessions of his wife (*ta tas gynaikos*), nor a son the possessions of his mother (*ta tas matros*). And if anyone buys or offers security or accepts on pledge otherwise than is prescribed, as of the time when these laws are inscribed, the possessions (*ta men kremata*) are to belong to the mother and to the wife, and the seller or the one who accepts the pledge or the pledger is to pay double to the buyer or pledger or recipient of the pledge, and if there is any further penalty, in simple value.⁸¹

The purpose of this legislation has been explained as limiting the power of the *kyrios* (Schaps) and, thus, offering “greater protection to women’s property” (Sealey, Gagarin, Ogden), or maintaining a balance between individual (or family) and communal interests (Link).⁸² Such studies interpret the corresponding evidence in the sense that individual or family interests were preferred to those of the kinship community.

The view of Ronald F. Willetts, Stefan Link, and Michael Gagarin was that women actually possessed the property in question, while, according to Josef Kohler with Erich Ziebarth and Alberto Maffi, the *kyrioi* retained control over the possessions of their wives and mothers, so that the Gortyn Law Code only limited the possibility of these possessions being abused by the *kyrioi*.⁸³ The latter opinion is supported by the provision – seen in the text of the Law Code below – that if the *kyrios* maintains that these possessions do not belong to his wife or mother, the matter should be brought to a judge’s arbitration (*I.Cret.* IV 72, col. VI.25–31). The claim was that these possessions did not represent marriage portions and, therefore, they could be alienated.⁸⁴ Likewise, according to the Gortyn Law Code, if the woman died, the father was in control of the mother’s portion (*I.Cret.* IV 72, col. VI.33–34: *ton patera karteron emen ton matroion*), but he still had no right to sell or pledge it “unless the children consent and are of age” (35–36). And if the father married another woman, the late mother’s portion came under the control of her children.⁸⁵ Similar regulations concerned the (inherited) property administered by fathers on behalf of their underage children.⁸⁶ The Gortyn Law Code, therefore, protected the interests of not just individual women but also of children, or of the household as a whole, or, in general terms, of the entire kinship community, by forbidding the deprivation of its members of their property through a sale or a pledge. The situation in Athens looks very similar. The husband “was, in effect, only temporarily in control” of the dowry,⁸⁷ and if the wife died without children, the dowry had to be returned to her former *kyrios*, i.e., to the natal *oikos*.⁸⁸ The husband also forsook the dowry if he divorced his wife or

if the woman was married to another man, who came to control the dowry but, evidently, lacked the power to dispose of it.⁸⁹ Elsewhere, we read about the Athenian regulation that only the sons of an *epikleros* could dispose of her property.⁹⁰

The husband seemingly retained the dowry if the woman did not turn out to be an *aste* and, therefore, was not married to him in engyetic marriage, because only this type of marriage legitimated a transfer of property from one *oikos* to another.⁹¹ Every Athenian *aste* was expected to have a dowry, according to Solon's law, although the dowry was more of a social custom than a legal obligation.⁹² At the same time, we also hear about dowries at the marriages of non-*astoi* in the post-Solonian period. For example, in his will an ex-slave and very successful banker, Pasio, left his wife Archippe in marriage to Phormio, his most trusted associate, with a hefty dowry (*proika*) of two talents in cash, a lodging house worth one hundred minae, jewelry, and female slaves (Dem. 45.28). Pasio was not an *astos* but a *polites* "by decree," who thus obtained the right to possess immovable property in Athens as part of his change in status; the same will be suggested for Archippe (see next chapter). The probable explanation for the difference between such cases and engyetic marriages is that social convention called for the latter to include a dowry.⁹³ If this interpretation is correct, then Solon's regulation on dowries also served his purpose of both distinguishing the kinship community from other social groups in the city and helping with its survival, since the requirement of a dowry made it easier for its female members to find husbands for themselves (even if this was not always the case, as we have seen above). This regulation also meant that the presence of a dowry could be offered as an additional proof of engyetic marriage and, therefore, of the status of children born in that marriage as legitimate (*gnesioi*) – those who had the right to inherit the patrimony and join various social organizations in the city. Hence, while trying to prove that Phile was not a legitimate wife of Pyrrhus and that her daughter was not a *gnesia* and, therefore, had no right to Pyrrhus's estate, the son of Pyrrhus's sister pointed out that there was no evidence of a dowry agreement for Phile's mother.⁹⁴ Limiting the requirement for dowries to engyetic marriages served to set members of the kinship community apart from other people in the city, as noted by Vernant (1988, 56). Separation was the other side of homogenization: by establishing limits on dowries, Solon facilitated marriages, which also helped to homogenize the kinship community.⁹⁵

Since only engyetic marriage entailed the presence of a dowry, no dowry was expected when an *astos* and an *aste* lived together outside of engyetic marriage. This situation might explain the above-mentioned story by Diogenes Laertius that Socrates – and, presumably, other Athenians – lived with two *astai* at the same time, only one being his *engyete* wife, and that it was only due to a special regulation that children by the other woman were also acknowledged as legitimate. The lack of an engyetic marriage was why Socrates took the second woman without a dowry.⁹⁶ Even if the story about Socrates was an invention, the tale correctly reflects the actual regulations in the Athenian kinship community. Conversely, if the woman did not turn out to be an *aste* and if she, therefore, had been given to an *astos* in engyetic marriage unlawfully, or "contrary to the laws," the husband

retained the property he had received from her. One of the speeches from the Demosthenic corpus mentioned a special law to this effect, thus showing that such cases were not rare, and justified Phrastor, who had sent his wife away and refused to give back her dowry after discovering that he had been deceived in believing that he married Stephanus's legitimate daughter while, as he argued, she proved to be Stephanus's daughter from the alien Neaera.⁹⁷

Attempts to prove that the principles of the Athenian kinship community became relaxed in later times have not been compelling. There is no proof, for example, to support the view that "a head of household [i.e., a *kyrios*, S.D.], in fourth-century Athens, was entitled to bequeath even in the presence of natural legitimate sons."⁹⁸ Nor was there any departure from the old regulations concerning the possessions of the wife.⁹⁹ Aristotle makes references to similar laws elsewhere in the Greek world by using very general language. He points to laws preventing the sale of estates in Locri, preserving the "old allotments" (*palaious klerous*) in Leuciae, and forbidding loans secured on a certain portion of one's land (*tes hyparkhouses hekasto ges*) in Elis. He also talks of Philolaos's legislation – dated to about the turn of the seventh century – on "producing children" (*peri paidopoiias*) in Thebes, which some of the Thebans called "laws on adoption" (*nomous thetikous*) and which served, according to Aristotle, to preserve the number of allotments (*hopos ho arithmos sozetai ton kleron*).¹⁰⁰ As we have seen in the preceding chapter, "producing children" was the expression used for the *gnesioi* ([Dem.] 59.122; Diog. Laert. 2.26), and only *gnesioi* were eligible for adoption. The "(old) allotments" (*kleroi*) appear to have been the land plots of the members of the kinship community.

This situation also explains why laws on inheritance were relatively late to emerge in Greek cities: the earliest such law known to us is Solon's regulation in Athens. The emergence of such laws has also been presented as a reflection of the rising trend of individualistic interests coming in conflict with the larger communal interests or, in the opinion of David Asheri, as a display of the struggle between "the concentrative tendencies of the *genos* and the autonomist inclinations of the *oikos*," at a time when the state "began to interfere openly in the internal affairs of the *genos*," and when "lawgivers and reformers tried to establish the political community on the independent household as base-unit of the *polis*." Accordingly, the purpose of Solon's law on inheritance was allegedly "to preserve the households of childless citizens as independent units, preventing collateral as ascendants from inheriting and thus weakening the concentrative tendencies of the *genos*." This view, first formulated by Glotz, continues to dominate scholarly opinion.¹⁰¹ But why did the state decide to interfere in the affairs of the *genos* at that time? And what was the "state"? And why did lawgivers throughout the Greek world come up with regulations of the same nature at about the same time?

The radicalism of Solon's laws on heiresses, guardians, dowries, testaments, and adoptions has been greatly exaggerated. If someone had legitimate children, his property passed to them; if he had no legitimate children and made no will, the property passed to the nearest of kin ([Dem.] 47.14; Isae. 4.15) and, therefore, stayed in the *genos* anyway. If, in the absence of natural-born legitimate male

children, he adopted a son, the adoptee came from either his close relatives or distant relations or, at most, the kinship community at large. The ultimate aim of Solon's laws on heiresses, guardians, dowries, testaments, and adoptions – and of the corresponding provisions in the Gortyn Law and similar regulations from other parts of the Greek world – was to keep the *oikoi* of the *astoi* from being desolated.¹⁰² The Archon saw to it that *oikoi* were not extinguished in Athens by, among other things, allowing pregnant widows to remain in the *oikoi* of their late husbands, whereas, according to Plutarch, Solon's regulations required the *kyrios* who preferred to marry the heiress to have an intercourse with her at least three times a month and, in case he failed in his marital obligation, allowed the heiress to divorce him and marry "his next of kin."¹⁰³

For the same reason, according to Solon's law, adoptees could depart from the *oikoi* of adopters only after procuring a legitimate son, either their own or adopted, and leaving him in their place ([Dem.] 44.61–63; cf. *I.Cret.* IV 72, col. XI.6–10). Therefore, the speaker, who was defending the validity of his adoption by the late Menecles against the claims of Menecles's brother, tried to strengthen his case by accusing his opponent of intending to desolate the *oikos* of Menecles (Isae. 2.15: *exeremoun autou ton oikon*), specifying that this would render Menecles "childless and nameless," with no one to take care of the family cults and perform annual rites for him. In what looks like a similar case, a speech by Isocrates (19.3) mentions that when a half-sister of the late Thrasylochus from the island of Siphnos disputed the rights of his adopted son, the latter accused her of trying to leave Thrasylochus's household extinct (*oikon eremon poiesai*). Likewise, a speech from the Demosthenic corpus accused Macartatus, who was in possession of the estate of the late Hagnias (which was being disputed), of introducing his newly born son into the family of his mother, thus threatening the family of Hagnias with extinction (*ton de Hagniou oikon eiaken eremon einai*), whereas the speaker claimed to have introduced the boy to the phrateres of Hagnias so that the family might not become extinct.¹⁰⁴ Kinship communities maintained their position by cutting across the boundaries of individual clans and families for the purpose of preserving individual *oikoi* or, as shown by legislation on inheritance and adoption, strengthening their control over the community's immovable property.

Another way to secure the special status of the *gnesioi* was to affiliate outsiders with kinship organizations without offering them membership. Formally, non-*gnesioi*, i.e., aliens (*xenoi*) and bastards (*nothoi*), could not become members of phratries. As we have seen above, fathers of natural-born and adopted children swore sacred oaths that the enrollees were *gnesioi*, i.e., born from *astai* in engytic marriages. This allegedly goes against the evidence supplied by Harpocration (N 5), who both mentioned a speech by Lysias (17.5, 8) dealing with the status of a *gnesios* (*ei gnesios ho logos*) and quoted a fragment from Craterus (*FGrH* 342, F 4), the author of the third century, which said that when someone applied to become a phratry member, any willing Athenian could accuse him before the college of the *nautodikai* if the applicant appeared to be the son of two aliens (*ex amphoin xenoin gegonos*). As attested by Harpocration and Pollux (8.126), the *nautodikai* dealt with aliens (*xenoi*). Since this evidence suggests that children

who had only one parent who was a *gnesios* could still become members of phratries, earlier interpretations were that the text from Craterus is corrupt, provoking various emendations and interpretations.¹⁰⁵ However, the information supplied by Craterus is not necessarily wrong, which means, of course, that there is no need to modify the text. For example, children born in an engyetic marriage between an alien who had received the *politeia* of Athens “by decree” and an Athenian *aste* were also counted as “legitimate” (*gnesioi*), even though only their mother belonged to the kinship community. As such, they had access to membership in the phratries.¹⁰⁶

It was evidently possible even for non-*gnesioi* children to obtain phratry membership, although such cases were probably exceptional and applicable only to people who had the right to possess real property in the territory of the city. As we examined in the previous chapter, and will deal with in more detail in the next, some non-*astoi* could receive the right to possess immovable property in the city, either by a special privilege in the form of the right of *enktesis*, or as a result of acquiring Athenian *politeia* “by decree,” which included the right of *enktesis*. An example of the former situation is seen in one of the speeches by Isaeus. A certain Euctemon eventually managed to enroll his son by Alce, allegedly a former slave woman who held the status of a metic at that time, into his phratry, after agreeing to give this son only one of his farms and to leave the remaining property to his legitimate (*gnesios*) son by an *aste* and *engyete* wife (Isae. 6.22–28). Even if we accept Isaeus’s information at face value, it does not really contradict the words of Craterus, because the son of Alce had Euctemon, a *gnesios*, as his other parent. Another such example, which is certainly much better known, is that of the younger Pericles, a son of the great Pericles by an alien, Aspasia from Miletus, who was acknowledged as the lawful successor of his father and enrolled into his phratry by a special decision of the assembly after much pleading by his father (see appendix 6). However, in some other cases, it is not clear if the new phratry member had a *gnesios* among his parents. For instance, we do not know if Thrasybulus the Caledonian, one of the murderers of Phrynichus, who was rewarded with the Athenian *politeia* (or made an “Athenian,” as in the text of the decree), had a *gnesios* parent. He probably did not. Nevertheless, he became enrolled in a phratry, and in a tribe.¹⁰⁷ The feature that is common in all these cases is that the person who was not enrolled in a phratry by virtue of his origins but by a special decision appeared to have the right to own real property in the city of Athens.

Since, as Carawan has correctly observed (2008, 395), phratry membership reflected the right to have immovable property in the city, which the *gnesioi* had by the virtue of their origins, enrollment in a phratry typically required the verification of the legitimate birth of all candidates, including women. If a *gnesia* female happened to be an heiress – i.e., if her father neither had nor was likely to have legitimate male children, nor was he eager to adopt someone as his heir – he enrolled her into his phratry.¹⁰⁸ The same rule applied here as it did for male children. Isaeus (3.12) clarified that the estate could not pass to a woman of “irregular

birth" (*te me orthos gegenemene*), i.e., a non-*gnesia*. Women's membership in phratries cannot, of course, be taken as a proof of women's "citizenship" in classical Athens,¹⁰⁹ because women did not have political rights and because the Athenians who had political rights were organized by demes after Cleisthenes's reform in the late sixth century (see chapter 6). However, if someone received the right to possess immovable property in the territory of the city by a special grant, he could be enrolled in a phratry because what really mattered in the end, it appears, was not so much the legitimate status of the enrollee but his or her right to possess immovable property. As long as this right belonged only to the *gnesioi*, the verification of the origins of the prospective phrater was enough, but as more and more non-*gnesioi* received this right, Athenian phratries evolved into semi-kinship organizations. This development, however, neither did nor could affect the *gene*, and therefore, such evidence cannot be used to support the idea of an overall relaxation of the principles of the Athenian kinship community.

The evidence throws a critical light on Roussel's theory that Athenian phratries only emerged after the formation of the *polis* of Athens, because, he argued (1976, 142), if phratries had originated earlier than the *polis*, they would have been so different from each other, with their own variations and customs, that it would have been impossible to create one *polis* out of their "federation." This, however, is precisely what Draco was doing when he extended the right and responsibility to legally protect *astoi* from members of the same *oikos* to members of phratries, and organized the ephetes as officials common to all kinsmen.¹¹⁰ Solon established the same principle of legitimacy for all Athenian *astoi* and introduced the rule of *anchisteia*, legitimate kinship proximity as far as the children of first cousins, as the basis for determining various rights and obligations, including inheritance, dowries, marriages to heiresses, and appointment of guardians, among many other cases.¹¹¹ Solon, thus, borrowed a principle that existed in Draco's homicide law, which allotted the right to prosecute murderers to relatives in the degree to the children of first cousins.¹¹² Moving farther in the same direction, Solon made the Areopagus into the homicide court for the kinship community as a whole and retained the ephetes as a jury.¹¹³ Other innovations of Solon's, which evidently followed his introduction of the principle of legitimacy, were that only legitimate children had access to *gene*, and that *gennetai* could legally prosecute, or forgive, the murderers of members of individual households.¹¹⁴ Both Draco and Solon cut across the limits of individual households by creating superstructures in the form of common officials, laws, and regulations, and by allowing members of larger social groups, such as phratries and *gene*, to be involved in their affairs.

Reexamining the activities of Draco and Solon shows that they were not trying to undermine the position of the kinship community. Just the opposite was true: they were aiming to strengthen and homogenize it. It seems possible to say that Solon's regulations on *anchisteia*, heiresses, guardians, testaments, and adoptions homogenized Athenian kinsmen in social and legal terms and set them aside from the rest of the population of Attica. Solon thus created the Athenian kinship community.

Conclusion

This chapter argued against the traditional, modernized interpretation of Solon's reforms as, on the one hand, putting personal interests above those of the community and defending the rights of individuals or individual households against the claims of the clan, or, on the other hand, as a quasi-democratic measure.¹¹⁵ In fact, Solon differentiated between segments of the Athenian population, focusing on members of the kinship community, or the *astoi*. He established the kinship community by distinguishing between legitimate and illegitimate children – and, thus, institutionalizing *anchisteia*, which was already in existence under Draco – and by laying down the uniform principles of that community's organization. Solon both separated its members from the rest of the population of Attica and introduced, or reorganized, institutions and offices that were valid for the entire kinship community. Likewise, his laws on heiresses, guardians, dowries, testaments, and adoptions homogenized the Athenian kinship community by cutting across the limits of individual families and clans.¹¹⁶ His reason for curtailing the right of the guardians to sell or pledge the possessions of their wives was not because this property belonged to individual women but because it formed a part of the assets of individual families of the *astoi*, and of the kinship community as a whole. By facilitating marriages and allowing adoptions from beyond the limits of individual households and clans, Solon cut across local divisions, homogenizing and strengthening the entire kinship community. This evidence does not support the view that Solon's reforms undermined the power of individual Athenian *gene*. Rather, his reforms purposefully strengthened the joint position of all *gene* together. The traditional interpretation of his reforms can also be challenged on the basis of the evidence that it was Solon who created the Athenian *gene*, as we know them in the late archaic and classical periods: he introduced the principle of *anchisteia*, which established kinship proximity up to the children of first cousins,¹¹⁷ and he defined the status of the *gnesioi* as the children born in engytic marriage.

Similar regulations which we see elsewhere in ancient Greece at about the same time – for example, those by Charondas in Sicily, and the so-called Gortyn Law Code from Crete – show that Solon's reforms reflected the overall response by kinship communities throughout the late archaic Greek world to the same challenges, such as the extinction of individual families, furthered by personal animosity and enmity among relatives, and external pressure from the mounting numbers of non-kinsmen who enjoyed various privileges in Greek cities (see chapters 3 and 4). Solon's cutting across family and clan divisions also homogenized the kinship community in the sense that it was now possible to marry into any other family, adopt from and into any other family, and have a guardian from any other family of that community, thus raising the chances of survival for both individual families and the kinship community as a whole.¹¹⁸ Not only that, but the Archon was expected to take care of the survival of all families of the kinship community – by leaving pregnant women in the households of their late husbands, by protecting the interests (and the property) of orphans and

heiresses (and by ensuring that the heiresses were to be married), and in many other ways. The Areopagus and the Heliaia dealt with cases of all the kinsmen and were recruited from among all the kinsmen. Also, any member of the kinship community could rise up in defense of any other of its members, regardless of whether he belonged to the same household. Solon's policy of homogenizing the Athenian kinship community and assigning a special place in the city to all of its members led to the establishment of legal equality of the *astoi*. They now formed a privileged legal community in the city, or *politeia*, which will be examined in the following part of the book.

Notes

- 1 Recent discussions: Scafuro (2006, 175–180); Rhodes (2006, 248–260). See also Robb (1994, 128–129).
- 2 Manville (1990, 124 n. 1). Rhodes (2006, 256) accepted all the laws ascribed to Solon by Plutarch (*Sol.* 20–24) as historically valid, including laws on *epikleroi*, dowries, speaking ill of the dead and (in some contexts) the living, bequests, funerals, adultery, and grants of *politeia* to immigrants, among others. A similar view: Leão and Rhodes (2015, 6).
- 3 E.g., Glotz (1904, 340–341); Patterson (1998, 109): “a traditional, perhaps Solonian, law that defined legitimate children”; Lape (2002–03, 124): on “Solon’s transformation of bastardy and legitimacy into formal legal statuses.”
- 4 Cf., for example, the situation noted by Herodotus (1.173.5) when children by an *aste* woman (*gyne aste*) and a slave counted as belonging to the *genos* (*gennaia tekna*). According to Donlan (2007, 34), “while *nothoi* are always identified as such, they are nonetheless full members of the patrilineage.”
- 5 Dem. 23.53 (see also appendix 2). Lape (2002–03, 125): “A man’s wife and his concubine could both bear socially viable offspring because the primary status distinction organizing social identity in the early polis was the distinction between free and slaves.”
- 6 [Dem.] 59.122 (see page 50, n. 72).
- 7 E.g., Keesing (1975, 22): on the “network of kinship and the system of descent as parallel but separate systems”; Donlan (2007, 34) (see n. 4 above), 36.
- 8 E.g., *genos*: And. 1.127; Isae. 7.15–16; [Dem.] 59.59–60, 63, and phratry: Isae. 7.15–16, 8.18–19; Dem. 57.54; [Dem.] 59.122. See preceding chapter.
- 9 *IG* I³ 104.16–19 (409–408 B.C.) with [Dem.] 43.57; see also *FGrH* 324 (Androt.), F 4 = 328 (Philochor.), F 20b (see next note), and Poll. 8.125, with MacDowell (1963, 50, 124), who doubted that the situation was the same in the fifth century; *pace* E. M. Carawan, in *CP* 86 (1991): 1–16. For the ephetes, see preceding chapter.
- 10 Arist. *Ath.Pol.* 3.6; cf. *FGrH* 324 (Androtion) F 4 = 328 (Philochor.) F 20b (πλὴν ἐξ εὐπατριδῶν, ὡς ἔφημεν, καὶ πλούτῳ καὶ βίῳ σφόδρῳ διαφερόντων). Wallace (1989, 52) argued that the Areopagus was established on the basis of nobility and wealth before Solon. This would not be surprising. What makes the difference, however, is that, according to Solon’s reforms, the Areopagites were chosen from among ex-archons (Arist. *Ath.Pol.* 3.6), and, as Wallace himself believed, whereas previously archons had likely been chosen from among the Eupatridai, after Solon’s reforms they were elected by the *demos* on the basis of wealth – from the *pentakosiomedimnoi* and, probably, the *hippeis*; for the latter opinion, see Badian (1971, 9–10). See also Roselli della Rovere (1999b, 21–32).
- 11 Solon’s authorship: Sealey (1987, 115–119); Manville (1990, 144–147); Harris (2006, 15); Rhodes (2006, 256–257).

- 12 Political rights and the amount of property: e.g., Arist. *Ath.Pol.* 7.3, 8.1, 26.2; Plut. *Sol.* 18.1–2; Harp. Θ 24; Poll. 8.129–130. See also Badian (1971, 9–10). Citizenship: Sealey (1987, 146–147); Manville (1990, 151–156); Rhodes (2006, 253).
- 13 On the difference between the ancient Greek and modern understandings of political rights, see chapter 4: if we accept that the Greeks only saw holding the office of the judge and of the archonship as political rights, then the thetes, and probably the *zeugitae*, had no political rights throughout the sixth and well into the fifth century.
- 14 Arist. *Pol.* 2.9.2, 1273b.38–42. E.g., Arist. *Pol.* fr. 106 (= *FHG* 2: 141 = Strabo 10.1.8, C 447 = Arist. fr. 603) and Arist. *Pol.* 5.5.5, 1305b.32–33. See also Heracl. *Pol.* fr. 11.6 (= *FHG* 2: 217 = Dilts 1971, no. 39 = Polito 2001, no. 39) and 25.4 (= *FHG* 2: 219 = Dilts 1971, no. 55 = Polito 2001, no. 55). The *timemata*: Arist. *Ath.Pol.* 7.3; Plut. *Sol.* 18.1; Poll. 8.129–130. It is true that Solon's classes were income classes rather than census classes based on the amount of possessed wealth: the word *timema* was used by later authors in retrospect. This leads to an interesting and potentially very important problem of how flexible the division into four classes could have been: see esp. Ober (1989, 61 n. 22).
- 15 Various theories: Ferguson (1910, 279); Raaflaub (2006, 390–428); Owens (2010, 115, 131); V. J. Rosivach, in *CP* 107 (2012), 146–150. The origins of census classes could predate the reforms of Solon, who gave them “a precise definition and a political function”: see Arist. *Ath.Pol.* 7.3 and a lucid overview in Rhodes (1981, 137–138).
- 16 Stahl (1987, 199); Foxhall (1989, 34); McGlew (1993, 99–101); Mossé (1995, 75); Horsmann (2000, 268–269); Queyrel (2003, 34); Wees (2006, 360); Bearzot (2008, 41); Blok (2009c, 159); Owens (2010, 109); Brun (2010, 105); Hall (2014, 256); Schmitz (2014a, 59); Schmitz (2014b, 48); Ober (2015, 151).
- 17 [Dem.] 43.54 (see page 55, n. 137, and n. 62 below). Pl. *Lg.* 6, 774a offers an interesting parallel by setting up fines for a man who refused to get married, depending on which of the four *timemata* he belonged; Becker (1932, 37). Plato's ideal state as centering on the kinship organization and imitating Solon's *politeia*: Piérart (1993, 121).
- 18 According to Aristotle, the four classes were established on the basis of the amount of output of agricultural produce: *Ath.Pol.* 7.3–4, with Rhodes (1981, 142) (“farmers”). See also Snodgrass (1980, 144–145); Ober (1989, 61); Fouchard (1997, 160); Foxhall (1997, 129–131) (a “land-owning qualification for citizenship”); Stanley (1999, 209–210); Wallace (2007, 60–61); Schmitz (2014b, 48); Rose (2012, 214–215, 240 n. 19) on the forms of wealth in Solon's time.
- 19 E.g., Dem. 30.8 (see page 45, n. 18).
- 20 E.g., T. W. Gallant, in *ABSA* 77 (1982), 111–124. *Pace* Rose (2012, 225, 242).
- 21 E.g., V. J. Rosivach, in *JHS* 112 (1992), 153–157. See n. 18 above.
- 22 A complementary explanation for this evidence is the beginning of the practice of granting *politeia* to aliens, which was also associated with Solon. As part of their status, those new *politai* received the right to own immovable property in the territory of Attica (see next chapter).
- 23 Carawan (1998, 89 and 83, respectively) and 134 suggesting that the Solon's reforms of the Areopagus led to the growing role of the state.
- 24 E.g., Carawan (1998, 133–134); Roselli della Rovere (1999a, 147). Cf. Poll. 8.125, who referred to Solon as having added the ephetes to the Areopagus Council; *pace* Ruschenbusch (2005, 46–47).
- 25 Solon's reforms of the Areopagus: Arist. *Ath.Pol.* 8.2, with Gagarin (1981, 128–132) (on Solon's changing the Areopagus into a homicide court), 132–136 (on the ephetes, who judged the cases of homicide before Solon) and Ruschenbusch (2005, 37, 43) (on the Areopagus being transformed into a homicide court in the time after Solon), and 46–47 on the ephetes as being replaced by the Heliasts in homicide trials. For Solon's establishment of the Heliastia: M. H. Hansen, in *Classica et mediaevalia* 33 (1981–1982), 10, 27–38; Sealey (1994, 119); but see Sealey (1987, 119) on the possibility that the Heliastia existed even before Solon.

- 26 See also Arist. *Pol.* 2.9.2, 1273b.38–42 and Plut. *Sol.* 18.4–5.
- 27 *Dikai* could only be brought by members of the household on behalf of any member of the same household, such as a relative or a slave: *IG* I³ 104; [Dem.] 47.68–72 (see page 54, n. 129); and Pl. *Eutyph.* 3e7–5d7. The original nature of *dikai* can also be seen from the difference between *dikai* as private and oral suits filed with respect to individual *oikoi* by members of those *oikoi*, and *graphai* as public and written suits filed with respect to individual *oikoi* by people who belonged to other households: R. Osborne, in *JHS* 105 (1985), 53, and next note. The survival of oral laws and the emergence of written laws as reflecting the development of the kinship community: chapter 4.
- 28 Arist. *Ath. Pol.* 9.1: Solon's laws allowed "anybody who wished to exact redress on behalf of injured persons." On *graphai* as established by Solon: Sickinger (1999, 19); Rhodes (2006, 255–256); Gagarin (2006, 266); Barta 2.1: (2011, 598–605). We have more information on *graphai* than on other types of public suits, such as *eisangeliai* (see below).
- 29 E.g., McGlew (1993, 92); Schmitz (2004, 233); Karabélias (2005, 237); Forsdyke (2005, 95–96); Tsigarida (2006, 118); Gagarin (2006, 274) ("more citizen participation"); Wallace (2007, 66); Cohen (2015, 128).
- 30 Cf. Glotz (1904, 374); Harrison (1971, 9); Phillips (2008, 76, 238). For MacDowell's suggestion that *graphai* were also used in homicide cases, see page 167, n. 159.
- 31 Arist. *Ath. Pol.* 56.6, with Lipsius (1905–15, 354–357); Hansen (1975, 21); Bringmann, in Ruschenbusch (2010, 23, 78).
- 32 P. J. Rhodes, in *JHS* 99 (1979), 103–106; Hansen (1975, 15). Cf. Bringmann, in Ruschenbusch (2010, 23, 78).
- 33 Glotz (1904, 381–382); Rhodes (1981, 106, 160–161), with Harrison (1971, 72–74). The same evidently pertained to the idea of autochthony, or local origins, in the sense of common or equal origins (see page 10, n. 8 and page 11, nn. 20–21, and page 43, n. 1), which Osmer (2013, 161–165, 171) connected with the development of Athenian democracy (so also Pelling 2009, 471, 473; Roy 2014, 245, both with bibliography); hence, her dating of the emergence of this idea to the fifth century. However, equality was not only limited to political equality (Dmitriev 2015b, 68–83), and enjoying equal *politeia* did not necessarily entail equal political rights: later democratic thinkers appropriated and retrospectively reinterpreted the idea of autochthony as also including political equality.
- 34 E.g., Diod. 12.15 and 12.18.3–4, respectively. Cf. Th. Thalheim, in *RE* 11 (1907), 117; Mühl (1929, 30). The date: e.g., Hölkeskamp (1997b, 1109, 1999, 132); Gagarin (2012a, 307).
- 35 Cf. the suggestion of Hölkeskamp (1999, 140–141), who saw this story as a reflection of Athenian practice that was ascribed to Charondas's authorship by Diodorus. See *FGrH* 1026 (Hermipp.), F 5 = Athenae. 14, 619b = Wehrli (1974), fr. 88: the Athenians sang Charondas's laws at *symposia*, with L. Piccirilli, in *Civiltà classica e cristiana* 2 (1981), 7–8 (on different interpretations of this passage), 10–14 (on the tradition of singing laws in ancient Greece).
- 36 E.g., And. 1.117–123 (on the two daughters of the late Epilycus, who were married by their closest kin without a dowry), and Lys. 19.14 (the speaker's father "took" his wife without any dowry), i.e. quite like what we see in Athenian law requiring that the closest kinsmen of the *epikleroi* of the thetes class either marry them or dower them for a marriage ([Dem.] 43.54): marrying them thus meant getting no dowry; with Ruschenbusch (2005, 194–195), and n. 62 below; [Dem.] 59.8 (on daughters of state debtors, who were in danger of not getting married because they had no dowry) and further evidence in Erdmann (1934, 78 n. 43); Schaps (1979, 37–38); Vérilhac and Vial (1998, 163); Karabélias (2002, 211–223).
- 37 E.g., [Dem.] 43.54 (see page 55, n. 137, and n. 62 below); Diod. 12.18.2–4, with Scafuro (2006, 179); Isae. 3.74. For discussions of this situation, see Drerup (1897, 295–296); Karnezis (1972, 239–241).

- 38 E.g., Dem. 57.41; Isae. 3.50; 6.14, 46, with Thompson (1972, 224). See n. 61 below for the situation when *epikleroi* had to divorce their husbands in order to be married by their closest agnates.
- 39 [Dem.] 59.113; Plut. *Sol.* 20.8; and Plut. *Sol.* 20.6: “in all other marriages he reduced dowries (τῶν δ’ ἄλλων γάμων ἀφείλε τὰς φερνάς); the bride was to bring with her three changes of raiment, household stuff of small value, and nothing else” = Ruschenbusch (1966, F 71a). This law: [Dem.] 43.54 (see page 55, n. 137 and n. 62 below). The puzzlement: Glotz (1904, 330). See Leduc (1987, 218–219, 1992, 286); Hawke (2011, 173, 248 n. 67): Solon’s concern was to “restrict large-scale movement of property outside the kin circle”; Wagner-Hasel (2013, 160–161); Leão and Rhodes (2015, 115). However, this was something self-evident because, according to Solon’s laws, only *gnesioi* could inherit: Isae. 6.25; [Dem.] 44.62. See also Schmitz (2004, 218–222), who wondered (219 n. 223) if those regulations necessarily pertained to marriages, and noted (220) that *phernai* only began to be used as a legal term in the Hellenistic period. It would be interesting, although it goes beyond the scope of the current examination, to compare this evidence with references by later authors (*FGrH* 1026 [Hermippus], F 6 = Athenae. 13, 555bc = Wehrli (1974), fr. 87; Ael. *V.H.* 6.6; Iust. *Epit.* 3.3.8), including Plutarch (*Apophth. Lacon.* 227f), that Lycurgus prohibited dowries in Sparta (τὰς κόρας ἐνομοθέτησεν ἀπρoικους ἐκδίδoσθαι), although there evidently appears to be sufficient evidence about large dowries, female inheritance, and transfers of property at marriage in Sparta: see Hodkinson (1986, 398–399). Did Plutarch use the word *proix* correctly in this situation, or did he make another error (see next note)?
- 40 Robertson (1986, 150); Vêrilhac and Vial (1998, 128, 173) (“le dot directe”). This interpretation of *pherne*: Hartmann (2002, 77, 96); Wagner-Hasel (2013, 159–161); Foxhall (2013, 34); Phillips (2013, 140). For *proix*, see Isae. 2.9: “so we married her to Elius of Sphettus, and Menecles . . . handed over her dowry to him, and gave her the clothes she’d brought with her to his house and the jewelry she had (καὶ ὁ Μενεκλῆς τήν τε προῖκα ἐπιδίδωσαν αὐτῷ . . . καὶ τὰ ἱμάτια, ἃ ἦλθεν ἔχουσα παρ’ ἐκεῖνον, καὶ τὰ χρυσίδα, ἃ ἦν, δίδωσιν αὐτῇ).” It is noteworthy that, if we directly follow the text, Menecles handed the *proix* over to the new husband of his former wife, while giving her trousseau to the woman. See Isae. 8.8 on the *proix*, in the form of money at the value of twenty-five minae, side by side with the raiment and jewelry (σὺν ἱματίοις καὶ χρυσίοις) which the woman brought to her marital family.
- 41 This fact explains many things, including an allegedly “fairly weak conception of bastardy” at Gortyn: Ogden (1996, 271). Cf. Patterson (1998, 80): “The operative social groups of the code are the *oikoi* and *pylai* [= *phylai*]. The latter were most likely here, as in other Greek *poleis*, political subdivisions of the citizen population into which recruitment was hereditary through the father. There is no adequate reason to consider them in any sense real kinship groups.” However, a mere reference to some social group as a “political subdivision” with a “hereditary recruitment” neither proves nor denies the kinship status of this group. The early four Athenian tribes were kinship organizations, whereas the later ten Athenian tribes were territorial arrangements that ceased to be open only to the *gnesioi* (see chapter 6), even though they remained “political subdivisions” with a “hereditary recruitment” in both cases. The rule of tribal endogamy, i.e. the requirement that the Gortynian “heiresses” marry within the *pylai* of their fathers, shows the kinship nature of the tribes of Gortyn at that time: e.g., Kohler and Ziebarth (1912, 68); Willetts (1967, 11, 18–19, 25–26).
- 42 This could have been the purpose of *nomos agamiou*, which was interpreted as being aimed at preventing fathers from not arranging marriages of their daughters: Schmitz (2004, 211), although the evidence for this law is acknowledged to be conjectural (*ibid.*, 210–211), whereas the existence of a *graphe agamiou* in Athens has been in doubt: Erdmann (1934, 113–116); Harrison (1968, 19 n. 1), who, however, interpreted it as targeting adult males who did not wish to get married. According to Schmitz (*ibid.*, 212), the *nomos agamiou* served to protect the survival and continuous

- existence of the *oikos* and community ("Gemeinschaft"). Provided engyetic marriage meant a transfer of property to another *oikos* and engyetic marriages were only available to the *astoi*, this law promoted the interests of the kinship community as a whole, i.e. not only individual *oikos*.
- 43 *I.Cret.* IV 72, col. IV.31–43, 48–54, with M. Guarducci's comments on p. 158 (ad iv.52-v.1); Leduc (1987, 214–217); Gagarin (1994, 64–65); Cantarella (2005a, 74); Maffi (2012, 95–97). Cf. Cox (1998, 107, 117) on local variations in ancient Greece: women received only dowries – usually long before their fathers' death, since girls were generally married young – in some regions, whereas elsewhere they also received a part of inheritance after their fathers died.
- 44 [Dem.] 46.18 = Ruschenbusch (1966), F 48b = Martina (1968), F 440.
- 45 This interpretation also: Erdmann (1934, 269), although he passed over the role of the Archon in establishing the closest *anchisteus*; on this, see Dmitriev (2014, 78–80).
- 46 *Plut. Sol.* 20.2–3 = Ruschenbusch (1966), F 52a = Martina (1968), F 444a, with Vêrilhac and Vial (1998, 107–108).
- 47 *I.Cret.* IV 72, col. VII.40–VIII.12, with M. Guarducci (*ad loc.*); Willetts (1967, 72); Bile (1994, 47), and *I.Cret.* IV, 72, col. VIII.19–20, with Willetts (1967, 72), respectively. Cf. Patterson (1998, 94); Perlman (2014, 180): she could marry whomever she could find; Grote (2016, 117) on Gortyn tribes as citizens' organizations.
- 48 Solon's authorship: Glotz (1904, 342); Rubinstein (1993, 10); Cobetto Ghiggia (1999, 21) (pointing out that Solon institutionalized and adjusted a practice that already existed, i.e. as in some other cases mentioned above); Lindsay (2011, 347); Griffith-Williams (2012, 146); Canevaro (2016, 359–360).
- 49 Patterson (1998, 86). Similar interpretations: Glotz (1904, 342–343, 344, 347); Brindesi (1961, 39); Manville (1990, 127); Karabélias (1990, 61, 2002, 52); Hunter (1994, 50–51); Gagliardi (2002, 51); Tsigarida (2006, 94–95); Schmitz (2007, 32); Owens (2010, 123); Griffith-Williams (2012, 146); Huebner (2013, 513). The criticism of this view, even if from a different premise than the one adopted in this book: Gernet (1920, 135, 249, 1955, 127). Evidently dissatisfied with this interpretation, Sealey concluded (1994, 122) "one cannot tell what difference Solon's law [on adoption] made."
- 50 Cf., e.g., Bourriot (1976, 303); Barta 2.1: (2011, 505) (both with bibliography).
- 51 This explains why a disposal of the daughter did not always happen at adoptions: e.g., Edwards (2008, 47–48), who doubted some of the corresponding evidence in orators (Isaeus, in particular), asserting that this was a "case where Solon's law was no longer adhered to in the fourth century." It was the status of the daughter that mattered: if she was not a *gnesia*, then an adoptee bore no (legal) responsibility for her well-being.
- 52 This view: Harris (2006, 230–231), who did not take into account whether or not the parties involved held the status of "legitimate" (*gnesioi*). For engyetic marriage as a loan, see page 44, n. 15. For the difference between marriage practices in Homeric society when husbands paid for wives, and Greek *poleis*, when wives were typically "given" with dowries, see Bickerman (1975, 22–23); Finley (1981, 233–245), who also noted (235) that "with remarkably few exceptions, the marriages in the *Iliad* and *Odyssey* were between outsiders, that is to say, between a man from one community . . . and a woman from another," which was totally different from the situation in classical Athens; Vêrilhac and Vial (1998, 128), and a discussion in Patterson (1998, 56–62).
- 53 For *engye* as an oral agreement: e.g., Partsch (1909, 146–147, 163); for adoptions (*inter vivos*) as oral agreements: e.g., Rubinstein (1993, 46).
- 54 Cf. Asheri (1963, 7): "The system of succession arose in the archaic patriarchal society at a time when landed estates were held in common by the *gene*, i.e. great families composed of three or four generations, whose members related to a common ancestor and lived together on the same, undivided soil. Obviously, at this early stage of social evolution, the problem of succession within the *genos* did not exist at all; the only concern was to avoid that immovable property belonging to one *genos* should devolve on to strangers."

- 55 E.g., Humphreys (1986, 58–59); see Rubinstein (1993, 26, 44): “the right to be adopted posthumously was restricted to those intestate heirs who had already had the inheritance awarded to them by *epidikasia*.”
- 56 Dmitriev (2014, 67–85), and, e.g., Hunter (1993, 107); Rubinstein (1993, 1–2, 25–28, 41, 105–112) (incl. 26: “all the adopted sons, except one, belonged to the *anchisteiai* of their adoptive fathers”), followed by Griffith-Williams (2012, 146 n. 5), who noted, however, that the “practice when family members provided an heir for a deceased kinsman . . . seems to have been a matter of custom rather than law”; Avramović (1997, 220–221). Cf. Asheri (1960, 9–10); Avramović (1997, 221), who pointed to the involvement of the Archon in the cases of “posthumous adoptions.” The task of the Archon was evidently to establish, or confirm, the *anchisteia*, – in the same fashion as in the cases involving the *epikleroi*, see Dmitriev (2014, 78–80) and chapter 1.
- 57 Isae. 3.61 (*hoi kata genos*); Asheri (1960, 12–13); Humphreys (1986, 59); Hunter (1993, 105, 107): on the “posthumous adoption of an *epikleros*’s son into the house of his maternal grandfather,” conceding that “the son of an *epikleros* inherited his grandfather’s estate when he reached his majority” regardless of whether an adoption took place.
- 58 Isae. 7.16. The oaths of the father that the child he was introducing into his *genos* and/or phratry was a *gnesios*, born of an *aste* in engyetic marriage: chapter 1. For *gegonotha orthos*, see Isae. 3.12 (see below and page 51, n. 95).
- 59 E.g., Gernet (1920, 129–130, 1955, 129–131); Lacey (1968, 145); Fantham (1975, 49) (“only citizens born of a legal marriage were eligible for adoption”); Littman (1979, 18) (“adoptees tended to be chosen from within the family”); Hunter (1993, 104) (with n. 2); Just (1989, 92); Rubinstein (1993, 22–26) (“adoptive fathers tended to choose their adopted sons from within their *anchisteia*”); Cox (1995, 249–254, 1998, 125–127, 148); Humphreys (2002, 342) (“in practice Athenians chose their adoptive heirs among their close kin or affines”); Hartmann (2002, 102); Lape (2002–03, 122) (“the law gave the citizen the right to adopt only the legitimate sons of other men”); Wohl (2010, 254); Leduc (2011, 190); Griffith-Williams (2012, 148) (“the majority of attested Athenian adoptions involve an adopter and adoptee who were already related, either by blood or through marriage”); Huebner (2013, 514): the adoptee “usually, if not always, belonged to the closer circle of relatives.”
- 60 Dem. 57.53. See also the *Suda*, E 2385: on *gnesioi* children as having the right to inherit the father’s property.
- 61 Since the adopted son occupied the same legal status as the naturally-born *gnesios* son, that of being the closest relatives to the adopter, he also automatically secured control of the adopter’s daughter, whom he could marry (see next note). Cf. situations when husbands lost their wives to relatives claiming an *epikleros* by the right of the next of kin: Isae. 3.64–65, which was not discussed by Ruschenbusch (2005, 193–196). The husband could keep the wife, and the dowry, by ceding the estate to the closest relatives of the woman: Isae. 10.19–21, with Karnezis (1972, 210); Karabélias (2002, 148–149); Griffith-Williams (2013, 238–242). It would not be correct to say that this situation, which was known as *aphairesis*, could not take place in the presence of legitimate children of the married *epikleros*: Karabélias (2002, 150–151). Regardless of whether *aphairesis* took place, the legitimate sons of the *epikleros* would then claim the estate once they were two years past the legal age: Isae. 8.31, 10.12; [Dem.] 46.20. Such divorces could be avoided by selecting agnate husbands for women: e.g., Cox (1998, 7 n. 11).
- 62 E.g., (i) the law quoted in [Dem.] 43.54 (= Ruschenbusch 1966, F 126 = Martina 1968, F 437; see page 55, n. 137), ascribed to Solon by Glotz (1904, 330–331, 338 n. 1); Scafuro (2006, 179); *pace* Welwei (1992, 181); Hölkeskamp (1999, 140) (with reservations); Ruschenbusch (2005, 194); (ii) Isae. 1.39, with reference to “laws” (see page 47, n. 36); and (iii) Men. *Dysc.* 731–732, which show that the adoptee did not necessarily have to marry the adopter’s daughter: for this opinion, see, e.g., Erdmann (1934, 70 n. 23, 73–74) (with notes); Karnezis (1972, 218–219); Cox (1998, 88, 95)

- (with n. 112), 128; Humphreys (2002, 340 n. 2). For the marriage as not always necessary for the adoptee, see esp. Gernet (1955, 136); A. Maffi, in *Symposion 1990* (1991), 218 (with n. 12); Rubinstein (1993, 95–97). It has been argued, however, that the outcome depended on the type of adoption: the adoptee had to marry the adopter's daughter in adoptions by testament, and did not have to in adoptions *inter vivos*; e.g., Gagliardi (2002, 43) (with n. 133 for bibliography). But see Schmitz (2004, 223) (with n. 236), who believed that an option of not marrying the adopter's daughter was a later development and had no connection to any specific type of adoption; this view was evidently derived from the suggested dating of the law quoted in [Dem.] 43.54 to some time after Solon; see, e.g., Ruschenbusch, *loc. cit.*
- 63 Adoptees were adopted “into households” (Isae. 10.17: *eis oikous*), thus serving the *oikos* and not individuals. The same conclusion follows from references to adoptions as aiming to prevent the extinction of *oikoi* (see below).
- 64 Cf. Carawan (2008, 397–398) and, esp., Cantarella (1997, 105), who – on the basis of Aristoph. *Av.* 1653–1654 and [Dem.] 43.53 – provisionally concluded that *nothoi* had the right of inheritance in the absence of *gnesioi* children, and inferred (108) that *nothoi* could be registered in phratries. But Aristophanes's text does not support this interpretation (see chapter 1), nor does [Dem.] 43.53 confirm the inheritance by the *nothoi*.
- 65 E.g., Kohler and Ziebarth (1912, 71); Gernet (1955, 140).
- 66 E.g., *I.Cret.* IV 72, col. X.33–34 (*anpansin emen opo ka til lei*), with Glotz (1904, 345), who saw this provision as a direct parallel to Solon's regulations in Athens.
- 67 E.g., Willetts (1967, 30, 76–77); Ogden (1996, 264); Link (1994b, 28, 57, 59).
- 68 *I.Cret.* IV 72, col. X.44–45 (*aiper tois gnesiois egrattai*). E.g., Patterson (1990, 54): “the code does use *gnesios* for ‘legitimate,’” with n. 57: “if there are no *gnesia* the adopted son can inherit as though legitimate”; Maffi (1997, 76, 78). Ogden (1996, 263) used this evidence to conclude that “there is indeed then no vocabulary in the lawcode that implies directly or indirectly the existence of a status of bastardy at Gortyn,” but see n. 70 below.
- 69 The understanding of the *epiballontes*: Willetts (1955, 61) (“kinsmen in any degree”); Paoli (1976, 569) (“agnatus proximus”); Karabélias (1986, 32–33) (uncles and aunts, and their descendants), and (2004, 8, 13–15) (those relatives who inherit in the absence of close relatives, i.e. descendants, brothers, sisters, and their descendants); S. Avramović, in *ZRG* 107 (1990): 362–370 (the “fourth class” of heirs, who succeeded in the absence of children, brothers, and sisters); Cobetto Ghiggia (1999, 48–49) (with n. 22): “eligible relatives”; cf. Perlman (2014, 185).
- 70 Daniel Ogden interpreted the juxtaposition of *gnesios* and *ampantos* (“adopted”) in the Gortyn Law Code in the sense that *gnesios* meant “of the blood”: Ogden (1996, 263) (cf. *ibid.*, 38 and 117: see page 48, n. 51 and page 53, n. 121, respectively); this perception of *gnesios* as meaning both “legitimate” and “of the blood” has been shared by Cobetto Ghiggia (1999, 64–65) with n. 13, 241, and A. Chaniotis, in *Cretan Studies* 7 (2002), 51–52; cf. Wyse (1904, 531), who correctly observed that the “proper antithesis of εἰσποίητος (“adopted son”) is γόνῳ γεγονός (“natural-born son”), not γνήσιος (“legitimate son”).” See also Koerner (1993, 548–549), who translated this place in the original text of the Gortyn Law Code as “eine Adoption mag sein, woher (= aus welcher Phyle) einer will,” thus limiting the circle of the adoptees to members of Gortyn's political community (“innerhalb der Bürgerschaft”). This does not mean, however, that the status of the adopted son was completely equal to that of natural-born, legitimate male children should they survive: in that case, the adopted son only received one part for every two parts of inheritance enjoyed by biological legitimate sons: *I.Cret.* IV 72, col. X.48–52.
- 71 Isae. 6.44, 10.11; [Dem.] 44.62, 68; Harp. O 43.
- 72 Whether the adopted son who produced a legitimate son in his place and returned to his original family also became reinscribed into the registers of the deme of his original, i.e. natural, father (Rubinstein 1993, 58) or remained a member of the deme of

his adoptive father (Harris 2006, 365–370) is not directly relevant to my argument. In addition, this practice predated Cleisthenes's deme reform (see chapter 6). And even if the text of the law quoted in [Dem.] 46.14 (and incorrectly paraphrased as a law of Solon in [Dem.] 44.68) is a fake (see Harris 2006, 365 n. 1), which still needs to be proven (no such qualms were raised by Scafuro [2011, 214], who made several suggestions about why [Dem.] 44.68 incorrectly paraphrased the law), this affects neither our knowledge about this aspect of the adoption practice in ancient Athens nor the view ascribing its authorship to Solon. Also, if the one who was adopted lost the right to inherit through the family from which he was adopted (Isae. 9.33, 10.11), and if property was organized by demes (at least in the post-Cleisthenic period: see page 245, n. 46, and page 250, nn. 110–111), then the one who returned to his original family and, therefore, rescinded his right to inherit from his adoptive father, thus expecting to inherit from his natural father, had to be (re-)inscribed in his natural father's deme.

- 73 [Dem.] 44.22–23 (*para tous nomous*). E.g., Lipsius (1905–15, 518); Harrison (1968, 85–87); Gagliardi (2002, 52); Damet (2012, 155); Scafuro (2012, 156). The supporters of this view have even alleged the existence of the “law forbidding an adoptee from adopting”: e.g., Wyse (1904, 328); Brindesi (1961, 38–39); Lacey (1968, 25, 106, 146); Rubinstein (1993, 17); Cox (1995, 251) (the quote) with Cox (1998, 35–36, 88, 149); Cobetto Ghiggia (1999, 240–241); Huebner (2013, 513–515).
- 74 Plut. *Agis*, 5.3. See, e.g., Marasco (1981, 1: 209–211).
- 75 *Anecd. Gr.* I, 86 (B.) = *FGrH* 328 (Philoch.), F 168, with Blok (2006, 219, 240) (on the attribution of this regulation to Solon), 235: “a festival . . . when everyone would mourn for their lost relatives at the same moment.”
- 76 Jacoby (1944, 65–75), incl. 70: on Solon as responsible for the “institution of cults for the whole people.” The opinion of Jacoby has generally been shared by the studies that accentuate either the social or religious aspect of that festival. For the former, see, e.g., Parker (1996, 48), who generally followed (even if with a critical evaluation) the view of Jacoby, in the sense that the *Genesia* “had always been celebrated privately in aristocratic households: Solon instituted a public *Genesia*, and so opened the traditional ritual of aristocratic family solidarity to Everyman,” and Hawke (2011, 174–175, 177, 188): “Solon’s funerary legislation in the early sixth century purported to rein in potentially disruptive tributes to Athens’ aristocratic dead.” For the latter emphasis, see esp. Blok (2006, 235): the *Genesia* “as *polis*-festival . . . subsumed the former commemoration of the dead by groups, such as phratries or entire extensive families”; cf. 199: “Solon’s funerary laws were directed neither against the aristocracy nor against women, but were meant to regulate the relations between the living and the dead.”
- 77 See correctly in Maffi (2005, 257): “because the will aimed to provide an heir to the head of a family who did not already have one, its function was similar to that of adoption.”
- 78 E.g., Isae. 3.41, 60–61. For this type of marriage, which was reserved for the kinship community, see chapter 1.
- 79 E.g., Glotz (1904, 326, 348–350); Jacoby (1949, 38) on Solon’s plan of the “change from the clan state to the citizen state”; Ferrara (1964, 133–134); with further bibliography in Bourriot (1976, 303–304). See also nn. 49–50 above.
- 80 Glotz (1904, 326–327, 334, 344, 346, 348). A similar approach: Lacey (1968, 88–89), although he believed that Solon’s laws were aimed at promoting the freedom of individual households, *oikoi*, from the “wider kinship-groups.”
- 81 *I. Cret.* IV 72, col. VI.9–25. Tr. by Schaps (1979, 58) (modified).
- 82 Schaps (1979, 58–59); Sealey (1990, 78); Gagarin (1994, 68); Ogden (1996, 271); S. Link, in *ZRG* 115 (1998), 227, 23, 232, with Saller (2007, 94): on the Gortyn Law Code as “conceptualized in terms of individual rights of family members rather than the unitary household of Athenian law. As a result of this code, the male *kyrios* in Gortyn no longer had the right to dispose of his wife’s and mother’s property.” The fact

- that the Law Code of Gortyn used the word *matroia* (which is not found in Athenian documents) and did not use the word *kyrios* does not necessarily support the view that the practices and principles applied to family property in Gortyn were different from those in Athens: for this view, see, for example, Gagarin (2012b, 74–75)
- 83 E.g., *I.Cret.* IV 72, col. VI.16–18 (*ta men kremata epi tai matri emen k' epi tai gynaiki*) with Willetts (1967, 21, 68); Link (1994b, 54); Gagarin (2012b, 73–92) (with bibliography). Kohler and Ziebarth (1912, 70); Maffi (1997, 51–55, 107–114).
- 84 What was discussed was, for the most part, a woman's dowry or her inheritance: Link (1994b, 64, 86).
- 85 *I.Cret.* IV 72, col. VI.44–46: *ton matroion karteron emen*. This consideration was probably on Charondas's mind when he issued the law that punished (by *atimia*?) the men who brought home stepmothers to their children from the first marriage (Diod. 12.12.1). For *atimia*, see chapter 1 and appendix 1.
- 86 *I.Cret.* IV 72, col. VI.7–9, with commentaries by Willetts (1967, 68) (ad ll.7–12) and Koerner (1993, 507–513).
- 87 Rubinstein (2000, 51); see also Lipsius (1905–15, 492); Cox (2011, 234–235). This was a natural consequence of the marriage being a loan of the woman to her husband: page 44, n. 15.
- 88 E.g., Isae. 3.38. Littman (1979, 15); Cantarella (2005b, 247). See also chapter 1.
- 89 The first: e.g., [Dem.] 59.52, with Canevaro (2013, 190), who believed that this document was a later insertion but also noted that “although it contains details not found in the orator's summary, none of these details needs an independent source, as a forger could have drawn them from other passages in the orators.” The second: e.g., Isae. 2.9; Harrison (1968, 47) (and n. 1).
- 90 [Dem.] 46.20; Isae. 3.50, 10.12.
- 91 [Dem.] 59.52, with Lipsius (1905–15, 494) (and n. 93).
- 92 See nn. 37–38 above. For the dowry as “customary but not obligatory,” see esp. Biscardi (1999, 1–22); Lacey (1968, 105, 108); Leduc (1982, 14); Avramović (1997, 84); Cox (1998, 120) = Cox (2011, 237) (“a social obligation,” with bibliography); Cobetto Ghiggia (2011, 79) (with n. 15); Maffi (2012, 96); Glazebrook and Olson (2014, 71).
- 93 Harrison (1968, 46–49) did not state this clearly, but his examples concern cases of engyetic marriage; cf. Wolff (1944, 54): “the dowry when given in kind was usually a piece of real property,” whereas only the *astoi* had the right to control immovable property in the city (see next chapter).
- 94 Isae. 3.28, 30, 36 (see page 271, n. 16). We should not mix law and reality: even if Solon required engyetic marriages to have dowries (which does not necessarily follow from his prohibition of dowries in other types of marriages, if this is what Plut. *Sol.* 20.6 meant), this does not imply that all engyetic marriages did so in practice.
- 95 Plut. *Sol.* 20.6 (see n. 39 above), with Leduc (1992, 290) (on this step as forging a “homogenous community,” though she interpreted this primarily in political terms), followed by Lape (2002–03, 133), who referred to this regulation as bringing about a “matrimonial and reproductive parity.”
- 96 Diog. Laert. 2.26 (*aproikon*); Plut. *Arist.* 27.3 (for Socrates' alleged two marriages, see page 50, nn. 75–76).
- 97 [Dem.] 59.51 and 63, with Cohn-Haft (1995, 4). For this interpretation, see also Cox (1998, 73); pace Hamel (2003, 83, 85), who referred to dowry in general terms and considered Phrastor's retaining of the dowry to have been illegal.
- 98 Asheri (1963, 9–10). None of his four examples appears to be relevant. One (Lys. 19.39–40) concerns money, i.e. not immovable property, bequeathed by someone on Crete to his son and other relatives, including the brother and the nephew; the second case (Dem. 27.4–5) was about immovable property that was not bequeathed; while the other two examples ([Dem.] 36.34 and Dem. 45.28) pertain to the will of Pasio, who was not an *astos*.

- 99 Asheri (1963, 10): "Another innovation was the will on behalf of the testator's wife; old legislation had forbidden or limited any serious property transaction between husband and wife, in order to prevent the loss of the household to strangers," with reference to the Gortyn Law, and "in fourth-century Athens, this precaution had lost its meaning: the famous banker Pasion was legally empowered to bequeath his wife a great part of his substance and even to appoint her a new husband, Phormion, who was to marry her after his death." This case is irrelevant, because Pasion was not a *gnesios* and, therefore, he did not belong to the Athenian kinship community.
- 100 Arist. *Pol.* 2.4.4, 1266b.18–21, 21–23, and 6.2.5, 1318b.12–14, respectively. Philolaos: Arist. *Pol.* 2.9.7, 1274b.2–6.
- 101 Asheri (1963, 7, 8), respectively. Glotz (1904, 325): by his reforms, Solon "contributed to a large extent to the strengthening of the social power and the emancipation of human personality at the expense of familial solidarity"; see also, e.g., Gernet (1920, 129–130, 135, 1955, 124).
- 102 E.g., Maffi (1997, 78, 80); Rubinstein (1993, 69). Cf. a different approach by Hawke (2011, 166–167), who explained the system of adoption in Gortyn by the desire to "preserve property within the male line of the *oikos*."
- 103 Pregnant widows: Isae. 7.30; [Dem.] 43.75; Arist. *Ath.Pol.* 56.7, with the ascribing of this law to Solon by, e.g., MacDowell (1989, 19); Scafuro (2006, 179). Intercourse: Plut. *Sol.* 20.2–3 = Ruschenbusch (1966), F 52a = Martina (1968), F 444a, and Plut. *Amat.* 23, 769a (on this woman as a *gamete* wife), with Scafuro (2006, 188); Leão (2016, 250–251), who explained this regulation by the need to produce "a *gnesios* son, descending in direct line from the *epikleros*' father, and therefore able to give continuity to his original *oikos*."
- 104 [Dem.] 43.78 and 11, respectively. For these and other such examples: Griffith-Williams (2012, 147).
- 105 E.g., Schenkl (1883, 63) (and n. 14: *ex amphoin eugenoin gegonos* or *ex amphoin goneoin gegonos*) with bibliography; F. Jacoby, ad *FGRH* 342, F 4, who accommodated this provision by offering it a new dating; and Ste. Croix (2004, 235): "a very puzzling text."
- 106 Cf. the Athenian grant of *politeia* to the Plataeans that denied them the right to occupy the office of the nine archons and priesthoods of individual *gene*, but allowed these rights to their children if they were born from *astai* in engytic marriages: [Dem.] 59.104 and 106 (with pages 283–284 and 286, n. 14). Such children acquired the status of the *gnesioi*, even though only their mothers belonged to the kinship community of Athens: for a discussion of this situation in Athens and elsewhere, see page 125, nn. 117–119 and pages 211–212, nn. 128–130.
- 107 *IG I³ 102 = IG I² 110 = ML 85* (410–409 B.C.). For the use of "ethnics" in grants of *politeia* and the right of *politai* to possess immovable property, see next chapter.
- 108 [Dem.] 43.51; Isae. 3.73–76, incl. 73: on the "introduction" of the daughter to the members of the phratry (*ten thygatera . . . eis tous phratoras eisagagonti hos ousan gnesian heauto*); cf. Isae. 8.19 (*eis tous phratoras hemas eisegagen*); Poll. 8.107 (*eis toutous tous te korous kai tas koras eisegon*), with Lambert (1998, 178–188). Interestingly, a later commentary on Demosthenes spoke of *gamelia* (see preceding chapter) as the "introduction" of women to the members of the phratry (of their husbands): Harp. Γ 2 (*ten eis tous phratoras eisagogen ton gynaikon*), presenting marriage as a form of adoption; for this use of *eisagein*, see Gernet (1920, 150–151, 1955, 135).
- 109 This view: e.g., Müller (1899, 667, 772); Ledl (1908, 222–223); Podlecki (1998, 159).
- 110 *IG I³ 104.13–19*, [Dem.] 43.57, Plut. *Sol.* 19.4, and Poll. 8.125 show that the ephetes dealt with homicide cases among kinsmen in Draco's legislation; see Gagarin (1981, 131–132). On Draco's ephetes as preceding Solon's *epheis*, see Mirhady (2008, 22), and page 55, nn. 142–144. For the erroneous attempt to limit the role of the phrateres to pardoning in homicide cases, see page 51, n. 92.

- 111 E.g., Isae. 4.15–18 (see page 47, n. 45). Cf. [Dem.] 43.62 (= Ruschenbusch 1966, F 109 = Martina 1968, F 466): Solon's law prohibited any woman less than sixty years of age to enter the chamber of the deceased or to follow the deceased when he was carried to the tomb, except those who were within the degree of children of cousins.
- 112 For Draco's regulation that prosecution for murder was to be by relatives within the degree of children of first cousins: *IG I³* 104.13–16 and [Dem.] 47.72. For the idea that Solon's laws expanded on earlier regulations, see, e.g., Bourriot (1976, 310–311); Cobetto Ghiggia (1999, 21) (see n. 48 above).
- 113 The early history and the nature of the court of the Areopagus have been debated (see also page 55, n. 144). Bringmann, in Ruschenbusch (2010, 22, 28), asserted that Solon established the Areopagus not as a "homicide court" (Mordgericht), as held by the majority opinion, but as a "blood court" (Blutgericht), with reference to Plut. *Sol.* 19.3. The ephetes: e.g., MacDowell (1963, 48–57); Gagarin (1981, 133–134).
- 114 E.g., Dem. 23.72: by Athenian law, the murderer was to remain in exile until he was reconciled to one of the relatives of the deceased (*tina ton en genei tou peponthotos*); [Dem.] 47.70: according to the law, legal prosecution of the murderer was only possible if the victim was a *gennetes* (*en genei*) or a slave. Bourriot (1976, 298–301) pointed out that Draco's legislation only allowed the prosecution, or pardoning, of murderers to phrateres, and concluded, therefore, that *genos* as a kinship organization only emerged after Draco.
- 115 E.g., Carawan (1998, 83, 114–115). This perception has been based on the opinion of later Greek authors, who retrospectively viewed Solon's reforms in the light of the establishment of *demokratia* in Athens; see chapter 4.
- 116 The usual interpretation of Solon's reforms has been that the law of the city replaced the pre-existing family law: e.g., Paoli (1976, 351–356); Jacoby (1949, 38) (see n. 79 above). This was evidently the overall outcome of the legal development of Greek cities. However, evidence shows that Solon's intention was to establish common legal norms and regulations for the kinship community, whose members made only a part of the entire city population.
- 117 Cf. Bourriot (1976, 322): on *genos* in a strictly technical sense as embracing four generations of relatives. It is, then, understandable that Bourriot (334) referred to the period of Solon as the springtime of *genos*.
- 118 For the survival of *oikos* as the main aim of the institutions of epiklerat and adoption, see, e.g., Asheri (1960, 7).



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Part 2

The legal community

The expression “legal community” designates people with the same, or as we will see, almost the same, legal status in the city. The first part of this book examined how Solon homogenized the Athenian kinship community and further distinguished it from the rest of the population of Attica by giving the same social and legal status to all of its members, the *astoi*, cutting across their territorial, clan, and household divisions. In this fashion, his reform effectively created a legal community which later Greek and modern authors defined as *politeia*, referring to its members as *politai*.¹ These concepts were applied to Solon’s reform in retrospect: the earliest mention of the word *politeia* were made in Pseudo-Xenophon’s *Athenian Politeia*, generally dated to the period between the 440s and the 420s,² and in Herodotus’s description (9.33–34) of how Tisamenes demanded that the Spartans give him their *politeia*. Nothing prevents us from following this example of later Greeks by retrospectively applying a later definition and its cognates to the system established by Solon in Athens.

Solon’s *politeia* embraced all the *astoi* by virtue of their birth, regardless of their political rights, which Solon connected with the size of personal agricultural income and, accordingly, membership in his newly established four census classes (Arist. *Ath. Pol.* 7.3; Plut. *Sol.* 18.1–2). As the kinsmen of Solon’s Athens had different amounts of political rights, the kinship community and the political community did not coincide (see chapter 6 for more detail). The legal community and the kinship community did not coincide either, because once the status of all Athenian *astoi* as *politai* was established and acknowledged (even though the term itself was not used until later), it could also be granted as a special privilege to resident and visiting aliens: although such people became *politai*, they themselves could not join the kinship community of Athens. According to later Greek tradition, it was Solon himself who started to offer gifts of Athenian *politeia* to non-kinsmen. Therefore, the legal community of *politai* was comprised of those who had this status by virtue of their birth as legitimate children (*gnesioi*) born in engytic marriage – Greek texts used such expressions as “by nature” (*physei*) and “by origin” (*genei*) – and outsiders who received this privilege from the city of Athens by a decision of the People. Isocrates’s encomium for Euagoras of Cyprus (9.54) revealed that the Athenian *politeia* could be obtained either “by nature” (*physei*), as Conon had, or “by law” (*nomo*), due to the honorand’s

“numerous and great benefactions” to the city, as in the case of Euagoras. The orator who spoke on behalf of Phormio ([Dem.] 36.30) – a freedman and an associate of the famous Pasio (also a freedman, who received Athenian *politeia* as a grant because of his important banking activity in Athens) – and who was speaking against Pasio’s eldest son, Apollodorus, also distinguished between those Athenians who were *politai* “by origin” (*genei*) and those who obtained this status as a gift (*dorean*) from Athens. The speech composed by Demosthenes for Euthycles, who protested against the proposal of giving *politeia* to the mercenary leader Charidemus of Oreus in Euboea, pointed to those *politai* who occupied their status by virtue of their origins: Dem. 23.24 (*genei*). We also see this distinction between the two groups of *politai* in the first speech delivered by Apollodorus against Stephanus (Dem. 45.78): the orator juxtaposed *politai* “by origin” (*genei*) with those, including himself, who received *politeia* “by grace” (*kharin*) from Athens. The latter meant a grant of *politeia* “by decree” (*kata psephisma*), as Apollodorus made clear in another speech ([Dem.] 53.18). Elsewhere Demosthenes referred to Leptines as an alien by birth (20.30: *genei xenos*) but a *polites* by decision of the People (*poiesei polites*). The famous oration *Against Neaera* ([Dem.] 59.107) reflected the same situation by decrying Neaera as having no right to the Athenian *politeia* either “by nature” or “by decree,” because she was neither born an *aste* nor had she been “made a *politis* by the People.”

Since *politai* “by nature” were members of the kinship community (*astoi*), they were known as *astypolitai*, whereas those *politai* who received *politeia* through a decree of the People (*demos*), were referred to as *demopoiatoi*. As in the case of the use of the word *politeia*, the word *demopoiotos*, which emerged in the fourth century, was applied retrospectively to the sixth and fifth centuries.³ The same system evidently existed throughout the Greek world and survived even in much later times. Thus, a meticulously detailed treaty on *sympoliteia* between the cities of Miletus and Pidasa from the early second century stipulated that the women and children of the Pidaseans could also enjoy the *politeia* of Miletus, provided they were *politides* “by nature” (*physei*) in Pidasa, or they had *politeia* in some other Greek city.⁴ According to this document, at least some women had *politeia* by virtue of belonging to the kinship community of Pidasa. The difference between *politai* “by nature” and *politai* “by decree” also revealed itself in grants by, or exchanges of *politeia* between, Greek cities: *politai* “by decree” were categorized as a special group among the recipients of *politeia* and, at least in some cases, they had to face additional, and stricter, requirements, such as a prescribed length of residency in the city.⁵

Literary texts and inscriptions show that it was possible to be a *polites* either “by nature,” like the *astoi* following Solon’s reforms, or “by decree,” like those aliens who received *politeia* as a gift from the city. Since the legal community, or *politeia* (if we use the later concept), was not limited to kinsmen, it represented a separate social entity in Athens that emerged when *politeia* started to be granted as a privilege to non-*astoi*. The third chapter will focus on grants of *politeia* and the status of *politai* “by nature” and “by decree,” serving as the basis for the next, the fourth, chapter, which will reassess traditional interpretations of Solon’s *politeia* as establishing, or laying down the foundations, of citizenship and democracy in Athens.

3 *Politeia* and *politai*

Since, according to the later Greek tradition, Solon made all *astoi* into *politai* “by nature” and, thus, established *politeia* as a separate social and legal status, it is not surprising that Solon was also said to be the first to grant *politeia* to aliens. He turned Anacharsis (Luc. *Scyth.* 8) and those who were permanently exiled from their cities or who had immigrated with their families to ply a trade in Athens (Plut. *Sol.* 24.4) into *politai* “by decree.” In the opinion of the Greeks, therefore, the two groups of *politai* (if we retain the use of this later word) emerged in Athens as a result of Solon’s reforms.

1. Grants of *politeia* “by decree” and ethnics

In the period before the word *politeia* started to be used (and even after it emerged, as we shall see), the privileged legal status which Greek communities awarded to honorands was designated by what has generally been termed as “ethnics.”⁶ The earliest available evidence for this belongs to the fifth century. For example, the community of the Chaladrians made Deucalion and his clan “Chaladrians” (*Chaladrion emen auton kai gonon*). Likewise, according to Herodotus, the sanctuary at Delphi offered Croesus and any willing Lydian the opportunity to become a “Delphian” (*ginesthai Delphon*), whereas inscriptional and literary sources narrate how Thrasybulus of Calydon, the assassin of Phrynichus, received the status of an “Athenian” in 411.⁷ A few years later, the Athenians made any willing Samian an “Athenian” (*Samios Athenaios enai, politeuomenos hopos an autoi bolontai*). And, if we look elsewhere, the treaty between Helisson and Mantinea from the early fourth century made the people of Helisson “Mantineans on equal and similar terms.”⁸

Applying the ethnics in such cases has rightly been interpreted as reflecting grants of *politeia* in the period before the word *politeia* itself began to be used.⁹ The speech *Against Neaera* from the Demosthenic corpus of orations nicely illustrates this development: when the speaker quoted the original decree about the Athenian grant to the Plataeans, after their city was besieged for two years and finally taken by the Spartans in 427 (see appendix 3), he used the ethnic (“let the Plataeans be Athenians”), whereas when he provided his own description of those events, he applied the word *politeia* and its cognates. In what looks like a similar case, elsewhere the speaker referred to a law that prohibited making

anyone “an Athenian” who had not displayed his good disposition (*andragathia*) to the people of Athens, thus showing himself worthy of becoming a “*polites*”: the former expression probably came from the law itself, whereas a reference to “*polites*” was a part of the speaker’s own elucidation. We can be fairly certain, therefore, that the earliest documented such individual grants by the Athenians – to Perdikkas, the king of Macedonia, who valiantly fought against the Persians (ca. 479), and to Menon, son of Menecleides, from Pharsalus, who received this grant for his aid to Athens in the siege of Eion (in 477) – were defined with the use of an ethnic, even though the only available later references use the word *politeia*. In another similar case, Herodotus adduced the information of his source(s) about Tisamenus “having become a Spartiate” (*genomenos Spartiates*), adding his own comment that Tisamenus and his brother had been the only people to become “*polietai*” of Sparta. Likewise, contributing to the debate over the origins of the famous poet Tyrtaeus, and challenging Herodotus’s opinion, Plato referred to Tyrtaeus as both an “Athenian by nature” (*ton physei Athenaios*), implying that he was a *polites* of Athens by virtue of his birth, and a recipient of the Spartan *politeia* (*tonde de politen genomenon*). Ethnics, therefore, designated the status of both the *astoi* as *politai* “by nature” and the aliens who acquired *politeia* as an award.¹⁰

The earliest known inscriptions with direct references to grants of Athenian *politeia* belong to the fifth century. David M. Lewis’s authoritative edition of the early inscriptions from Attica has questioned, and rejected, several suggested restorations of the word *politeia* in such grants, all of which appear to have been honorific decrees, including the earliest of them, to King Euagoras of Cyprus.¹¹ In the chronologically closest grant – for the Samians, dated to the very end of the Peloponnesian War – Lewis proposed [*enai de ten dorean Samion tois he*]kousin instead of the earlier suggested [*einai de politeian Samion tois he*]kousin, once again eliminating the word *politeia* from this part of the text.¹² This skepticism should also extend to the inscription containing the Athenian grant to metics and their descendants from the very end of the fifth century. Whereas Iohannes Kirchner and Marcus N. Tod offered significantly different restorations, they both proposed restoring the word *politeia* as part of the missed text.¹³ However, judging by Lewis’s treatment of the lacunae in the above-mentioned grants to Euagoras and the Samians, there does not seem to be any valid reason for restoring *politeia* in the Athenian grant to metics and their descendants.

While none of these texts used the noun *politeia*, the above-mentioned Athenian decree for the Samians employed an adverbial form (*politeuomenos*),¹⁴ suggesting that such grants were first designated with the help of ethnics, then the adverbial forms of the word *politeia*, and, finally, the noun *politeia* itself. Later such grants continued to use ethnics and/or adverbial forms as well.¹⁵ It is also noteworthy that earlier and contemporary sources – inscriptions (including, for example, the Athenian decree on the Selymbrians and the same decree for the Samians) and literary texts (such as those by Pseudo-Xenophon and Herodotus) – employed the noun *politeia* to define a community of *politai*.¹⁶ The word *politeia*, therefore, designated a community of *politai* before being used in grants of *politeia* to outsiders, which we actually see for the first time in inscriptions from the fourth century.¹⁷

A change from using ethnics to using the word *politeia* in Athenian decrees – or from “let him be an Athenian” to “let *politeia* be given to him” – has generally been attributed to the late fourth century¹⁸ or third century.¹⁹ A similar change seems to have taken place in Samos, and probably elsewhere, at approximately the same time.²⁰ It is difficult, however, to date this change precisely, for at least two reasons. One of them, as noted earlier, is the continued use of ethnics in such grants in later times, as we see in decrees from the fourth century (including those for Dionysius I and his sons by Athens, and for other people elsewhere²¹) and from the Hellenistic period;²² in the speeches of Hyperides (fr. 77), Dinarchus (1.45), Isaeus (12.2, 7; cf. D.H. *Isae.* 17), and others (e.g., [Dem.] 59.2); and in references by such later authors as Diodorus (16.82.4–5: on Timoleon in Syracuse) and Aelian (*Var.Hist.* 13.24: on younger Pericles). The second reason is the retrospective use of the word *politeia* and its cognates for earlier grants, including those to Tyrtaeus (who allegedly received the Spartan *politeia* so that the Spartan hoplites were not being led by an alien, a *xenos*) and Euagoras of Cyprus, whom the Athenians made a *polites* “by law,” i.e., by decree, according to Isocrates.²³ Other texts from the fourth century similarly refer to such earlier grants as awards of *politeia*, including the above-mentioned Athenian grant to the Plataeans; the decree for Arybbas the Molossian (ca. 343–342), which stated that his father and grandfather had also received *politeia* from the Athenians; and for Phormio and Carphynas (in 338–337) on the grounds that their grandfather had obtained this privilege.²⁴ Later authors likewise applied the noun *politeia* to earlier grants. For example, in one of his many historical excurses, Polybius (4.33.5) noted that after the Second Messenian war in the mid-seventh century B.C., the Arcadians accepted Messenian refugees and made them *politai* (*epoiesanto kai politas*). And, as noted above, Lucian told the story of how the Scythian Anacharsis became a *demopoiētos polites* in Athens, while Plutarch described Solon’s grant of *politeia* to craftsmen who immigrated to ply their trade in Athens.²⁵

Those who interpret *politeia* as citizenship (see next chapter) rationalize the use of ethnics in such cases as displays of citizen status, either in general observations²⁶ or with reference to specific ancient texts, such as the Athenian decree about the Samians from the late fifth century (*IG* I³ 127.12–13) that was mentioned above and Plutarch’s information about grants of *politeia* by Solon to the craftsmen who permanently settled in Athens (*Sol.* 24.4).²⁷ However, interpreting ethnics as indications of citizen status poses several problems. One of them is that, similar to *politeia*, ethnics were related to one’s status not only in the cities but also in various other types of communities, such as sanctuaries, as shown in the above-mentioned grant of *politeia* to Croesus and any willing Lydian by Delphi (Hdt. 1.54.2), as well as Leagues, as evidenced in grants of *politeia* by the Aetolian *koinon* (e.g., *IG* XII Suppl. 249.13–15). At the same time, neither ethnics nor, accordingly, *politeia* were awarded by demes, although it was deme membership that was associated with the possession of political rights, at least in post-Cleisthenic Athens (see chapter 6). Still another problem of identifying *politeia* and ethnics with citizenship is the widespread accumulation of ethnics and *politeiai*, even though the idea of possessing citizenship in more than one place in

ancient Greece has generally been rejected (see chap 4, n. 82). This identification is also challenged by the ubiquitous application of ethnics and *politeiai* to women and children – who are generally believed to have had no political rights in ancient Greece – as, for example, in grants of *politeia* to the Plataeans by Athens, and to the Pidaseans by Miletus.²⁸

The only rationale behind interpreting ethnics as displays of citizen status appears to be the belief that since the word *politeia* allegedly denoted citizenship and played the same role in such grants as ethnics, the latter should have referred to citizenship as well. One of the consequences of this situation has been the theory of “federal states,” which is based on entire regions using the same ethnics, such as “the Aetolians,” “the Achaeans,” or “the Arcadians.”²⁹ However, ethnics defined neither “citizens,” i.e., people with political rights, nor the entire population: ethnics only referred to members of the legal community, or *politai*, i.e., those who shared some of the same legal and social rights. The use of an ethnic indicated that its recipient joined the circle of the *politai* and, thus, enjoyed the same rights and privileges, or *politeia*. It was not citizens but *politai* who figured as “Athenians” in Athenian public documents and on coins, like the one that graces the frontispiece of this book. The use of the collective ethnic in public documents reflected the creation of the Athenian legal community in the sixth century. The next section will focus on the status of its members.

2. The status of *politai*

It was argued above that the “legal community” meant a group of people who shared the same social and legal rights and privileges, which they received either by virtue of their birth or by grants. However, individual rights and privileges varied from one grant of *politeia* to another, provoking questions about whether all *politai* “by decree” had the same status, and whether such individual rights were a part of grants of *politeia* or added to them. Also, if *politeia* was citizenship, why, then, did grants of *politeia* often come together with privileges that either should have belonged to citizens anyway or had no relevance to citizens’ status? The commonly accepted interpretation has been that grants of *politeia*, or of “equal *politeia*” (*isopoliteia*), carried a potential character, and therefore awards of *politeia* needed to be “activated,” whereas other rights awarded by cities – either together with *politeia* or separately – could be enjoyed immediately. Michael J. Osborne noted that “the citizenship is actually found quite often in combination with such illogical companions as the proxeny. In such cases, where the grant of citizenship was perhaps in strict terms of a conditional nature, the abstract record of the honour would not be especially inapposite” and that “if the grant of citizenship was not utilized, then the concomitant honours provided most of the privileges that would have been acquired.” More recently, Adalberto Giovannini asserted that “almost all of decrees or treaties of isopolity also award besides potential citizenship a certain number of privileges that carried value independently of the activation of citizenship.”³⁰

Opinions on how this “activation” worked have varied. Gawantka and Davies, among others, thought that the activation was carried out with the help of the

"*metekhein*-formula": some grants of *politeia* expressly acknowledged the right of the recipients to partake (*metekhein*) in the rights and privileges of all other *politai*.³¹ Another view has been that the "activation" of *politeia* occurred through the resettlement, or "migration," of the recipient, so that his previous "citizenship" was lost.³² More specifically, the "activation of citizenship" is thought to have taken the form of the recipients' enrollment in various social organizations of the granting city. For example, according to Ugo Paoli, the enrollment of a new *polites* into a tribe, deme, and phratry was what made him an "effective citizen." Michael J. Osborne believed that a grant of *politeia* without enrollment in deme and phratry was only "provisional citizenship," whereas Philippe Gauthier juxtaposed the "actual incorporation" to the "bestowal of potential *politeia*," and Fritz Gschnitzer thought that only one who became incorporated into such entities was "a citizen in the true sense of the word."³³ Others have advanced the concept of the "naturalization" of the recipients of *politeia* without specifying its content. Still others, like Philippe Gauthier, correctly defined the concept of "naturalization" as "anachronistic and misleading" in this context.³⁴

Even more questions remain. First and foremost, this approach implies that enrollment in the city's social organizations was what brought the possession of individual rights and status as a whole, and not the other way around. Also, if *politeia* had a potential character and other rights could be enjoyed immediately, i.e., without enrollment, what, then, was *politeia*? Why could these other rights be given separately from *politeia*? And why were grants of *politeia* offered to people who were unlikely to reside in the granting cities and become enrolled in their social divisions, such as rulers or members of royal families, including Perdicas, King of Macedonia; Sadocus, King of Thrace; Euagoras, King of Salamis; Dionysius I, King of Syracuse, and his two sons; Leucon, King of Bosphorus; Orontes, Satrap of Mysia; Arybbas, King of the Molossians; Philip II, King of Macedonia; and other sovereigns?³⁵ Such evidence makes the usual references to grants of *politeia* as "potential" awards of "citizenship" look questionable. The nature of *politeia*, and the significance of grants of *politeia*, is revealed by the fact that *politai* "by decree" and "by nature" (i.e., the *astoi*) enjoyed some of rights in common, whereas certain rights belonged only to members of each of the two classes of *politai*, as will be examined below.

The status all politai had in common

Regardless of whether they obtained their status by origin as kinsmen or by decree, all *politai* formed one group and were referred to collectively. Inscriptions from other places juxtaposed *politai* and *politides* with the rest of city dwellers in various contexts. A public ordinance about the sale of a priesthood of Aphrodite Pandemos in Cos included the provision "so that the honors of the goddess are increased, all those of the *politides*, *nothai* and female resident aliens who are getting married must be seen to honor the goddess to the best of their ability."³⁶ Another decree from Cos, which praised contributors from among city residents who belonged to different social groups, distinguished *politai* and *politides* from

bastards (*nothoi*), resident aliens (*perieci*), and foreigners (*xenoi*).³⁷ In Priene, a decree for foreign judges from Phocaea and Astypalaea distinguished between *politai* and aliens (*xenoi*); the decree for Moschion, son of Cydimos, set *politai* apart from resident aliens (*tous katoikountas*), whereas the honorific decree for Herodes, son of Herodes, listed *politai* alongside *perieci*, aliens, freedmen, and slaves.³⁸ The arrangement of a religious ceremony in Priene mentioned the *politai* alongside the *perieci* and the Romans, whereas the honorific decree for Aulus Aemilius Zosimus juxtaposed *politai* as a whole with *katoikoi*, presenting them as two distinct groups.³⁹ Other epigraphical texts similarly distinguished *politai* from *katoikoi* (Cyme) or from aliens and slaves (Delphi).⁴⁰

As *politai* represented a separate group, certain activities in Greek cities were reserved only for them. According to Charondas's legislation in Catana, the salary of those who taught the sons of *politai* to read and write was to be paid by the state (*tes poleos*). This evidence might explain Plato's curious information about a law of Solon that allegedly made the teaching of letters mandatory for a father with regard to his sons in Athens. Although this information has been briskly rejected, Plato, in fact, talked about hired teachers, who were "attracted by pay from abroad for each several subject," and described the laws as ordaining that "no father shall either send his son as a pupil or keep him away from the training-school at his own sweet will," because those children were "children of the *polis* even more than of their parents."⁴¹ A law from Coresia mentions *politai* as one of the social groups, alongside metics and freedmen, who were to be entertained with a feast.⁴² The *politai* of Priene likewise formed a separate group at the celebration of the ruler's birthday, regardless of whether this ruler was King Lysimachus in the early third century or Emperor Augustus in the late first century. And the *politai* of Mylasa occupied a similarly special position among other social groups of residents in their *polis*.⁴³ Josephus (*A.J.* 12.119–120) referred to the right of exercising in the gymnasium and, at least in some cases, receiving free oil for exercises as another special privilege that all the *politai* had in common. His words show that the status of a *polites* entitled its holder to social and economic benefits, including public distributions. In another reference of this kind, Plutarch (*Cim.* 10.7) acclaimed Cimon for turning his house into a common place (*prytaneion koinon*) for *politai*, while allowing even aliens (*xenoi*) to use the choicest fruits from his estates. However, the most famous example of this special right of *politai* belongs to 445–444, when, as part of ensuring that only *politai* had access to a distribution of the generous gift of grain sent to Athens by Psammetichus of Egypt, the Athenians conducted a scrutiny to verify the status of *politai*.⁴⁴ The approach remained the same in much later times, as, for example, in 299–298, when, due to the intervention of the poet Philippides, Lysimachus sent ten thousand bushels of grain that were distributed among "Athenians."⁴⁵ The ethnic did not refer to all residents of Athens, regardless of their status, but to *politai*. Common economic privileges of all Athenian *politai* gradually came to include "theater money" (*theorika*) and payment for participating in military reviews.⁴⁶ Although these benefits emerged at different periods in time, they point to *politai* as a separate and privileged social group in the city.

Not surprisingly, as members of the same legal community, all *politai* had the privilege of using the same laws and being treated by the same officials. The above-mentioned Athenian grant of *politeia* to metics and their descendants included the following provision, if the editorial restoration is to be accepted:

let them and their descendants have [*politeia* and be distributed into ten tribes in no time,] and (let) the officials use the same laws for them.⁴⁷

This is what Demosthenes (23.126) had in mind when he urged the People not to give Athenian *politeia* and other rights to Charidemus, and praised those aliens “who, out of desire for our customs and laws (*ethnon kai nomon*), strive to become *politai*.” The situation was similar in the rest of the Greek world. The treaty of sympolity between Smyrna and Magnesia by the Sipylus prescribed that the Magnesians enjoyed *politeia* together with the Smyrnaeans “according to the laws of the city” (*kata tous tes poleos nomous*), whereas the treaty of homopolity, or sympolity, between Cos and Calymna included an oath that all *politai* were to use the same laws.⁴⁸ The admission of Sardians to *politeia* in Ephesus (which is thought to have been accompanied by a similar provision for Ephesians in Sardis) and the grant of “equal *politeia*” (*isopoliteia*) by the city of Nagidus to the people of Arsinoe specified the right of *politai* to use the laws of the other city:

if someone of the Sardians or Ephesians is robbed or wronged by the one who is not a Sardinian or Ephesian, the justice will be administered to an Ephesian in Sardis and to a Sardinian in Ephesus, according to the laws of the city, in which the offender was seized, and let them enjoy *politeia* and use the laws, by which they are penalized; and let them be *isopolitai* of the Nagideans; and let those who join them have a share in sacral matters . . .

if an Arsinoete does wrong to or suffers wrong from someone in Nagidus, let justice be accepted and given according to the laws of the Nagideans, whereas if a Nagidean does wrong to or suffers wrong from someone in Arsinoe, let justice be accepted and given according to the laws of the Arsinoetai.⁴⁹

The treaty of “equal *politeia*” between the peoples of Hierapytna and Priansus guaranteed the right to use the laws of the other city by those who happened to be selling, buying, lending, borrowing, and partaking in other similar kinds of activity there. When someone from Hierapytna made income in Priansus and a Priansian profited in Hierapytna, each was entitled to *isoteleia*, or the right to pay the amount of taxes equal to that paid by other *politai* (this right could also be awarded as a separate privilege). This was also true when a tax was to be paid on exported merchandise, and when an established penalty had to be paid for inflicted damage.⁵⁰

The right to use the same laws and to be treated by the same officials meant the right to stand before the same court that examined cases for members of the city’s kinship community. Literary texts and inscriptions show that all *politai* were juxtaposed with aliens, either resident (metics) or foreign (*xenoi*), in this regard as

well. In particular, Lysias mentions a plaintiff, who, having suffered wrongs at the hands of Pancleon, summoned the latter before the Polemarch, thinking that Pancleon was a resident alien. But Pancleon claimed to have the Plataean *politeia*, so the plaintiff asked him about the deme in which he was registered, with the intention of prosecuting him in the court of the corresponding tribe.⁵¹ This was supposedly the way in which the cases of the *astoi* were tried. Aristotle (*Ath. Pol.* 53.2) tells us that thirty judges went on circuits and held trials in demes (*kata demous*) over cases involving disputes of not more than ten drachmas. If one of the parties appealed their verdict, the judges sealed the boxes with the evidence and handed them over to the “four judges taking the cases of the defendant’s tribe.” The non-*astoi* also had their cases decided on the tribal level, but their cases were brought before the Polemarch and were eventually treated by judges of a different type. According to Aristotle, the Polemarch dealt with the cases of metics, *isoteloι*, and *proxenoi*. He divided them proportionately among the ten tribes and assigned the “jurymen for each tribe to the arbitrators.”⁵² Perfecting his definition of the city-state (*polis*), Aristotle noted that the state did not exist for the sake of trade or business relations. He pointed out that the Etruscans, the Carthaginians, and other peoples had various sorts of international legal regulations, including business agreements (*symbola*: see appendix 4) and treaties of military alliances (*symmakhiai*). Yet, continued Aristotle, despite such agreements, these people were still under the charge of the officials who dealt with the cases of aliens, implying that only the grant of *politeia* enabled its recipient to use the same laws and to be treated by the same officials as local *politai*.⁵³

This observation casts a new light on the reference ([Dem.] 46.22) that legal cases of *politai* were reviewed by the Archon, with those of metics handled by the Polemarch. Presenting the right to use the same officials as one of the benefits of sharing in *politeia*, Aristotle likewise observed that in matters concerning estates and heiresses, all *politai* brought their cases before the Archon, whereas metics went before the Polemarch.⁵⁴ The former group was thus comprised of not only the *astoi* (who, as members of the kinship community, were supervised by the Archon: see chapter 1), but also the *politai* “by decree,” including the Plataeans (cf. Lys. 23.1–2). Other texts, too, say that the Polemarch conducted the legal cases of metics (e.g., Dem. 32.29, [Dem.] 59.40; Isocr. 17.12; Lys. 23.2), juxtaposing them with cases of the *politai*. In legal terms, *politai* “by decree” became equal to members of the city’s kinship community and formed one social group with them, not only in Athens but elsewhere as well. Inscriptions from Crete mention the “law of the aliens” (*xenia dika*) alongside the “law of the *astoi*” (*astia dika*), as well as special officials who treated the legal cases of aliens in the sixth and fifth centuries.⁵⁵ Arcadian cities found themselves in a similar situation. The city of Stymphalos granted the right to use *astia dike* to those who were not *astoi*, whereas, faced with the problem of the restoration of exiles, Tegea established an alien court (*xenikon dikasterion*), juxtaposed with the court for *politai* (*politikon dikasterion*).⁵⁶ Although limited, such evidence suggests that different cities had different names for what was, in essence, the same practice: legal cases of the *politai* – i.e., *politai* “by nature,” or *astoi*, and *politai* “by decree” – were tried

separately from the legal cases of aliens. Miletus's treaties of *politeia* with Mylasa and Heraclea by Latmus likewise show that *politai* "by decree" enjoyed the same legal status as those who already had *politeia* in the city. Both treaties included a special provision which threatened that the people not abiding by agreements established in such treaties would be subject to laws for aliens:

if someone assumes *politeia* contrary to this ordinance (*psephisma*), let him be liable to legal prosecution by the *molpoi* and to the justice administered to aliens, according to the law (*kata ton nomon*), and

if some share in *politeia* contrary to the treaty (*syntheke*), they will be liable in Miletus to the justice administered to aliens and to legal prosecution by the *molpoi*, and in Heraclea to the justice administered to aliens.⁵⁷

Since *politeia* embraced all *politai* as holders of the same legal status, any reorganization of *politeia* came in the form of new legislation (*nomothesia*). In particular, Athenian history was often presented as a sequence of *politeiai* that followed upon each other from the early history of Athens to the legal reform of Demetrius of Phalerum, whose laws established a new *politeia* in the late fourth century.⁵⁸

It follows naturally that, together with the right to use the same laws and to be treated by the same officials, the recipients of *politeia* also obtained other legal rights that belonged to kinsmen, including the right of *aprostasia*, or self-representation in the court.⁵⁹ Because of this right, the litigious Apollodorus – who, like his father Pasio, received *politeia* "by decree" – delivered speeches in court on his own behalf. Lysias, too, probably gave a speech against Eratosthenes during the short period he had the Athenian *politeia* "by decree" after the fall of the Thirty.⁶⁰ By contrast, non-*politai*, including metics, were required to have a *prostates*, whose task was to represent their interests in court.⁶¹

Recipients of *politeia* not only themselves defended their own interests in the court of the granting city but also acted as *prostatai* for others. The reason for this was that *prostatai* played the role of sureties, which was only possible for people who had the right to possess immovable property in the territory of the city. The *astoi* offered themselves as sureties in legal cases (e.g., Dem. 30.32, [Dem.] 59.40–41) because they had the exclusive right to real property in the city as members of the city's kinship community.⁶² The property served as a guarantee against potential legal damage, in case one of the litigation parties fled from the city. In addition, being offered as a surety, it protected the body and personal freedom of the *prostates* himself in legal cases: aliens, who had no right to immovable property, could be put into prison to prevent them from fleeing during a trial.⁶³ The exclusive right of the *astoi* to possess immovable property in the city did not mean, however, that each of them necessarily owned any property or was able to dispose of it at any given moment. This follows from several pieces of evidence, including (i) information on the prosecution of the famous general Timotheus, son of the great Conon, by Apollodorus, who complained that his father had lent money to Timotheus "without security and without witnesses"

(the former situation explained the latter), because all of Timotheus's property had already been offered as security and *horoi* were set up on it;⁶⁴ (ii) a provision, ascribed to Solon, that a dispossessed heiress had to be dowered by her *kyrios* in accordance with the amount of his property ([Dem.] 43.54; Isae. 3.74), which is paralleled by evidence of "penniless heiresses" in Athens ([Dem.] 59.8) and Catana: Diod. 12.18.3–4 (for these stories, see preceding chapter); and (iii) a proposal made by a certain Phormisius (evidently, the same person who was a member of Theramenes's faction) in 403, to limit *politeia* to only those who possessed land in Athens. According to Dionysius of Halicarnassus, this proposal threatened to affect around five thousand people. While occasionally insensitive to the social and legal status of the people who were the focus of his economic and financial analysis, Finley concluded that perhaps twenty or twenty-five percent of "Athenian citizens" were landless at the end of the Peloponnesian War. However, Finley's "citizens" are hard to define, whereas Dionysius was speaking of *politai* in general, not necessarily only about deme members, i.e., people who had political rights in Athens.⁶⁵

The fact that recipients of *politeia* represented themselves in court and acted as *prostatai* for others meant that not only *astoi*, as *politai* "by nature," but also those who were granted *politeia* had the right of *enktesis*, i.e., the right to own real property, in the form of land and buildings, in the territory of the city. Therefore, they also received the right to act as *prostatai*, as we see in literary texts like *The Lexeis of the Ten Orators* by Harpocration, who probably lived in the second century A.D. but relied on much earlier authors, and in epigraphic sources. Thus, an Arcadian inscription shows that aliens were expected to choose *prostatai* from among all of the *politai*, not only from among the *astoi*.⁶⁶ The right of *enktesis* could be given as a separate privilege – often in return for benefactions to the city (Feyel 2009, 236–242) – either as the right to own a specific plot of land or a house, or as a grant of a general nature. The former case is illustrated by an Athenian grant of the right of *enktesis* to Cypriot merchants who then had a chance to worship their gods in Athens during the Lycurgan administration. The text of that decree applied the right of *enktesis* to a specific territory (*enktesis khoriou*), and cited the foundation of the temple of Isis by the Egyptians – who had, evidently, received a similar grant – as a precedent.⁶⁷ The specific right of *enktesis* for a house (*enktesis oikias*) was offered to Theogenes of Naucratis, who received it together with the hereditary *proxenia*, if we believe the suggested restoration.⁶⁸

Grants of a general nature did not impose such specific limitations: the recipient of the right of *enktesis* could possess immovable property of any sort, anywhere in the territory of the city.⁶⁹ For this reason, the right of *enktesis* enabled its recipients to participate in economic transactions by investing in real property and, accordingly, foreclosing on this real security, just like the *astoi* did.⁷⁰ An Athenian inscription about a house offered as security for several loans at once provides a perfect illustration of this situation, which was masterfully discussed by Moses Finley.⁷¹ Aristotle (*Oecon.* 2.2.3, 1347a.1–4) commented on a similar episode in Byzantium:

Certain metics had lent money on the security of property (*epi ktemasin*). Since they lacked the right to own immovable property (*ouk ouses autois enkteseos*), the people voted that anyone who wanted to pay one third of the loan into the treasury would have the legal right to the property.

The right of *enktesis* allowed its recipient to hold immovable property in the territory of the granting city, use this property as the real security, and, consequently, recover loans made on the security of such property. Hence, this right made for a much-desired grant for merchants and bankers doing business in Athens.⁷² For the same reason, it seems, we find an amazingly large number of grants of the right of *enktesis* in places that did not have much arable land (like Delos), and almost none in those that possessed such land in abundance (like Sparta).⁷³

The right of *enktesis* is thought to have belonged exclusively to “citizens” in ancient Greece.⁷⁴ However, possessing immovable property had no connection to individual political status. The speech against Polycles mentioned the special decision of the city council “on behalf of the *demotai*” concerning the advanced payment of taxes by “the *demotai* and those who owned property” (*ton te demoton kai ton enkektemenon*). The former group was comprised of male *astoi* who held real property in the deme of their registration, while the *enkektemenoi* were either *demotai* who held land in the demes other than those in which they were registered or non-*astoi* who, therefore, did not belong to the *demotai* but enjoyed the right to possess immovable property in the territory of the city as a personal grant.⁷⁵ The right to hold immovable property also belonged to *politai* “by decree,” even including former slaves, as follows from the speech pronounced on behalf of Phormio ([Dem.] 36.5–6), which explains how an ex-slave Pasio happened to owe eleven talents to the bank, which he had leased to his own associate, the slave Phormio:

Pasio’s real property was worth about twenty talents, and in addition he had more than fifty talents in cash out on loan. Of those fifty talents, eleven talents which were invested came from deposits in the bank. When Phormio took a lease of the bank’s actual business and deposits, seeing that, if he did not yet have Athenian *politeia*, he would be unable to recover the sums which Pasio had lent on security of land and buildings (*epi ge kai synoikiiais*), he preferred to have Pasio himself as the debtor for this money, rather than the other men to whom he had lent it.

Pasio, thus, had the right to recover loans made on the security of immovable property; in other words, he had the right of *enktesis*, because he had obtained *politeia* “by decree” for himself and members of his family. The latter explains why the right of *enktesis* also belonged to his son Apollodorus, who is known to have hypothecated a farm to meet expenses as a trierarch and who publicly complained that his farm, which he evidently managed to keep, was not as profitable because of a drought. This situation also explains why Pasio still needed Archestratus as a surety in the mid-390s – Pasio had not yet obtained the *politeia*

of Athens.⁷⁶ Since Athenian grants of *politeia* in the fifth and fourth centuries, and in much later times,⁷⁷ never said that recipients of *politeia* also obtained the right of *enktesis*, it can be concluded that grants of *politeia* included that right. This conclusion is implied in the late-fifth-century honorific inscription for Thrasybulus and his accomplices: while Thrasybulus himself received *politeia* (which was indicated with the help of the ethnic “Athenian”), the rest obtained only the right of *enktesis* “like the Athenians.”⁷⁸ The *politeia* of Thrasybulus must have included the right of *enktesis*, in addition to various other privileges associated with the status of a *polites*. Therefore, this is how we should interpret the above-quoted passage: the speaker proved Pasio’s right to own immovable property in Attica by referring to his *politeia*.⁷⁹

Archippe, the wife of Pasio and the mother of Apollodorus, also figures prominently in the corresponding evidence, because her late husband Pasio provided her with a dowry that included a piece of immovable property in the form of a lodging-house (Dem. 45.28). This evidence has played a crucial role in the debate about whether the status of Archippe was that of an *aste* or a *xene*, or, as David Whitehead has suggested, both at the same time. Whitehead’s conclusion about the status of Archippe as “sufficiently undeterminate” was based on the accusations put forth by the orator with reference to the law, which he quoted just a little before this point in the speech, as follows:

There shall be an adjudication of all heiresses, whether they belong to aliens or *astoi* (*kai xenon kai aston*), and [. . .] in the case of those who belong to *politai* (*kai peri men ton politon*) the Archon shall have jurisdiction and shall take charge of the matter, and in the case of those who belong to resident aliens (*peri de ton metoikon*), the Polemarch.⁸⁰

Confusion will necessarily arise if both *astoi* and *politai* are translated as “citizens” and are juxtaposed with aliens, or *xenoi*, thus presenting the social organization of Athens in the form of a bipartite division between “citizens” and “non-citizens.” The actual situation was more complex. A person could be an *astos*, as a member of the kinship community, and at the same time a *polites* “by nature,” that is by virtue of his origins as legitimately born (*gnesios*). Or, if he was not a *gnesios* and, hence, he stood outside of the kinship community of the *astoi*, he could still be a *polites* “by decree,” i.e., by a grant from the city, and, therefore, occupy the same legal and social status as the *astoi*. Or he could be a metic, with limited social and legal capabilities. Metics, however, could also receive the right of *enktesis* as an individual grant. The use of the same word “citizen” for *astoi* and *politai* not only passes over these important nuances but also blurs the distinctions between the social groups within the Athenian city population (see next chapter). Although Archippe was not an *aste*, she still could control her immovable property ([Dem.] 50.60: *ton auton kyria ousa*), which was qualified as *metroia* after her death ([Dem.] 36.32, 38), because she held the status of a *politis*. She evidently received that status together with her husband and their children, including Apollodorus, when Pasio obtained the Athenian *politeia* as a grant.⁸¹

Whether the right of *enktesis* was included in grants of *politeia* or whether it could (not necessarily always, however) accompany such grants probably depended on regional variations. On the one hand, the right of *enktesis* could be included in the status of a *polites*, as seen in the above-noted cases of Pasio and Apollodorus and undoubtedly other recipients of *politeia* “by decree” in Athens. We find a similar situation in Xanthus: its people gave the right of *enktesis*, evidently as a special grant, to five sons of Apollophanes by a Lycian mother, “like to *politai*.”⁸² On the other hand, other cities granted *politeia* alongside the right of *enktesis*, as demonstrated by an early fifth-century inscription from Olympia; by Xenophon’s evidence that the more trustworthy supporters of Olynthus from among the members of the Chalcidian League not only shared *politeia* with the Olynthians but also had reciprocal rights of intermarriage (*epigamia*) and *enktesis* in the 380s; and by a decree for Agesandros, son of Nicostratus, from Thessaly, who received *isopoliteia* and the right of *enktesis* from Tegea in the late 360s.⁸³ In the Hellenistic period, grants of *politeia* allotted together with the right of *enktesis* have been documented in Priene, Andros, Cos, Temnus, and Amyzon,⁸⁴ whereas Athenian grants of *politeia* still did not mention the right of *enktesis* as late as the second century B.C.

Politai “by decree” not only received an equal economic and legal status in the granting city but also the right to participate in its popular assembly. For instance, at the end of his narration about the love story of Callirhoe and Chaereas, Chariton (*Call.* 8.8.13–14) referred to the grant of *politeia* by the people of Syracuse to three hundred Greek men who had fought together with Chaereas. On Chaereas’s proposal, the grateful Syracusans held an assembly and conducted the voting (*psephos*) – in the form of a show of hands (*kheirotonia*) – about granting *politeia* to these people, which was then written down as a decree (*psephisma*). As soon as the three hundred received *politeia*, they joined other people at the assembly. Although this evidence belongs to a later period and comes from a work of fiction, there is no reason we should discard it. Contrary to modern views, ancient Greeks did not count sitting on courts and participating in popular assemblies among political rights. Solon opened courts and assemblies to all *astoi*, i.e., *politai* “by nature,” even including the thetes, who had no right to occupy political offices (Arist. *Ath. Pol.* 7.3; Plut. *Sol.* 18.2). Once he received *politeia* “by decree,” Thrasylus addressed the Athenian assembly with the proposal of giving *politeia* to numerous supporters of democracy in 410–409, and Lysias spoke before the assembly against the proposal of depriving poor Athenians of their status as *politai* “by nature,” during a short period in which he had the Athenian *politeia* “by decree” in 403.⁸⁵ The right to participate in the religious and social affairs of the Athenians belonged to the Athenian *politai* “by nature”: orations from the Demosthenic corpus ([Dem.] 43.51, Dem. 57.3) confirm that bastards had not had access to things sacred and profane (*meth’ hieron meth’ hosion*) from the time of the archonship of Eucleides, when the system established in Athens by Solon was reaffirmed by a scrutiny (*diapsephismos*) in 403–402 (see chapter 5). However, the same rights also belonged to *politai* “by decree” in Athens, and other Greeks elsewhere whose status was affected by mutually agreed-upon decrees of

“equal *politeia*” (*isopoliteia*), like those between Miletus and Seleucea (Tralles) and between Miletus and Mylasa, and by grants of *isopoliteia*, that by Hierapytna to Priansus.⁸⁶ These rights were also included in individual grants of *politeia* by Miletus to the grain merchant Thyssos, and by Amyzon to the royal *epistates* Menestratos:

let him be given *politeia* and a share in religious affairs and offices (*[kai metou]s[ian hieron k]ai archeion*) and the rest in which the Milesians share; and let this be given him and descendants,

and let him be given *politeia* and the right of *enktesis* and a share in religious affairs and offices (*kai metousia hieron kai archeion*) and absolutely everything else in which the Amyzonians partake.⁸⁷

Massive grants of *politeia* also offered recipients the right to share in administrative and religious affairs similar to other *politai*, as shown in decrees from the cities of Nagidus and Euromus,⁸⁸ and the grant of *politeia* by the Milesians to “those of the Heracleans (by Latmus), who want to share in the *politeia* in Miletus and in the religious and administrative affairs (*kai hieron kai archeion*) and all the rest, in which other Milesians have a share.”⁸⁹ *Politai* therefore jointly elected officials, as did the *politai* of Priene, who elected Dionysius, son of Amenius, to be the priest of King Nicomedes II (Epiphanes) of Bithynia (*I.Priene* 55.10–12).

A very special right of the *politai*, which constituted a necessary attribute of their privileged social and legal status, was their protection from verbal and physical abuse. This topic, discussed either in general terms or with reference to “citizens,”⁹⁰ has been fashionable in studies on the “social construction of the citizen” and the “image of free and sacrosanct body.”⁹¹ The most visible example of this situation is the so-called Scamandrian decree, which provided protection from torture. This decree is only mentioned by Andocides (1.43), who says that when the list of forty-two people suspected of the mutilation of the Herms was read at the session of the city council in 415, Pisander “rose and moved that the decree passed in the archonship of Scamander (*to epi Skamandriou psephisma*) be suspended and all whose names were on the list sent to the wheel.” MacDowell has plausibly dated this decree to the early sixth century, on the grounds that “an Athenian would hardly have been given the name Scamander before Athens gained control of Sigeum; this first occurred early in the sixth century, in the time of Periander of Corinth (Hdt. 5.95.2).”⁹² But the exact date of this decree has not been established: MacDowell himself was eager to date it either to the “reign of Peisistratus” or “one of the years between 510 and 480 for which the archon name is unknown,” while Wade-Gery (definitely) and Michael Edwards (tentatively) have put this decree in 510–509.⁹³

Whereas the dating of the Scamandrian decree cannot be established for certain, it raises an important question about the social status of the people who were protected from torture. Modern studies have generally subscribed to one of the

two opinions: the people protected from torture were either all of the free people who lived in the city⁹⁴ or only the “citizens.”⁹⁵ It can be suggested that Athenian laws gave immunity from physical damage, including torture, not just to “citizens,” but also to some of the people who had no political rights in the city. Apollodorus illustrated this situation with the following reference to the ingenuity of his enemies ([Dem.] 53.16):

In broad daylight they sent a boy *astos* (*pandarion aston*) onto my property – they are neighbors and their property adjoins mine – and instructed him to pluck the blossoms off my rose bush. Their purpose was that if I got angry and tied up or hit the boy, thinking he was a slave, they would indict me for assault (*graphen hybreos*).

The boy certainly had no political rights in the city. His protection from physical and verbal abuse was due to his status as an *astos*, which Apollodorus was certain to mention. This protection, however, also belonged to those who received *politeia* “by decree,” and, therefore, it was common to all *politai*. Lysias (13.27) refers to the “Athenians,” who for the reason of their status were not afraid that they would be put under torture, and to a certain Aristophanes, who, since he was found to not be a “pure Athenian” or, as Lysias says a little later (13.59–60), because he was an alien (*xenos*), was decreed to be liable to torture. As noted above, ethnics designated the status of all *politai*, not just kinsmen or members of demes. Therefore, male and female *politai*, both “by nature” and “by decree,” revealed their special status in the city by enjoying protection from physical and verbal abuse. This protection was to a large extent ensured by the above-mentioned right of *politai* to have real property in the territory of the city. In addition to being an indicator of one’s social status and an important aspect for one’s economic well-being, real property provided a necessary security in legal disputes, thus relieving *politai* of the need to endanger their bodies by offering them as a surety: people who had no such right occupied a socially inferior standing because, among other things, the only surety they could provide came in the form of their personal freedom.⁹⁶ Although an economic privilege, the right to possess immovable property in the territory of the city also secured the personal inviolability of its holder.⁹⁷ *Politai* “by decree” enjoyed this right just like *politai* “by nature,” i.e., members of the Athenian kinship community, who had it by virtue of their birth. Since all *politai* had the exclusive right to possess immovable property in the territory of the city, which served as security during legal trials, they did not have to await the end of their trials in prison, which was also a display of violence.

All *politai* were likewise immune against a summary arrest, which was another form of physical violence.⁹⁸ According to a well-known passage ([Dem.] 25.57), Aristogeiton – being annoyed with the metic Zobia and using the fact that she had failed to pay her regular poll-tax, the *metoikion* – “seized her with his own hands and dragged her off to the auction room at the aliens’ registry, and if her tax had not happened to be duly paid, she would have been put up for sale.” Plutarch (*Flam.* 12.7) told a similar story about the philosopher Xenocrates, who was

about to be put in prison by tax collectors for not having paid the *metoikion*. In another similar instance, when Phrynion heard that Neaera was back in town, he and his companions made an attempt to drag her away from Stephanus by force ([Dem.] 59.40). They were free to lay hands on her, because Neaera was not a *politis* either “by nature” since she did not belong to the kinship community of Athens, or “by decree” because she had received no such grant, as the speaker made clear ([Dem.] 59.107). Applying this kind of treatment to *politai* was impossible. Some have already juxtaposed visiting and resident aliens, or metics, with *politai*, because the latter could not be penalized with enslavement.⁹⁹ The *Suda* (M 819), a much later text but based on earlier evidence, reflected the same situation by saying that “the metics who do not pay the *metoikion* are dragged before the *politai* and, if convicted, they are sold.” Pollux (3.56) also set metics, who included people with diverse personal rights and privileges, against *politai*, especially those who received their status as a grant from the city. Discussing the protection of bodies by juxtaposing “citizens” with “aliens” or “free people” with “slaves” thus misses the mark, because this protection was an important attribute of the status of *politai*.

All *politai* likewise received protection from verbal abuse. For example, the speech *Against Eubulides* refers to the law ascribed to Solon which states that anyone who “makes business in the market a reproach against any *politai* or *politides* (*ton politon e ton politidon*) shall be liable to the penalties for slander (*kakegoria*).” The orator then immediately quotes what he claims to be another law of Solon, which did not permit any alien (*xenos*) to do business in the market: *ouk exesti xeno en te agora ergazesthai*.¹⁰⁰ Not only does this evidence once again present *politai* as a single social entity, it also points out that their economic advantages included both the exclusive right to possess immovable property in the territory of the city, as we have seen above, and the privilege to conduct economic transactions in the market. This right would also have belonged to kinsmen, i.e., *politai* “by nature,” because the market, the Agora, was not just an economic place but also the focal space in the life of the kinship community. It is worth remembering here that pronouncements about shedding of blood were to be made by kinsmen at the market; once such proclamations were made, the accused persons were obliged to keep away from the Agora, among several other prescribed places in the city.¹⁰¹ Extending the right to perform transactions in the Agora to *politai* “by decree” not only brought them important economic benefits but also gave such people a social status equal to that of the *astoi*.

Restricting the right to perform transactions in the market to *politai* might seem surprising, because there is plenty of evidence that foreign merchants sold their goods in Athens and other Greek cities. This evidence, however, does not necessarily make it clear whether these people operated in the markets or if their economic activities were limited to certain other places in the city, such as Piraeus in Athens, and/or if they had to pay a special tax to conduct business in the market place. As to the latter, the *diapsephismos* of 403–402 was accompanied by the renewal of a Solonian law that debarred all aliens from keeping a shop in the Agora unless they paid a special tax, the *xenikon*.¹⁰² Some of the bankers and

merchants were rewarded with grants of *politeia* by Athens and other Greek cities, which certainly facilitated their economic activities, implying that a lack of *politeia* imposed various restrictions on such activities in the city: besides providing the right of *enktesis*, Athenian grants of *politeia* offered their recipients unrestricted access to activities in the market.¹⁰³ *Politai* who were deprived of their status because of *atimia* (see next chapter) similarly lost the right to enter the market, according to Andocides (1.76: *eis ten agoran me eisienai*).¹⁰⁴ It could well be that this restriction concerned, first and foremost, the religious and political rights of such people, by excluding them from participating in the social life of the community in which the Agora played a crucial role. But a more immediate outcome of this situation was that they lost their economic benefits as *politai*. Verbal abuse was seen as being closely connected with physical violence: Ariston was reflecting a popular view when he told the judges that laws against slander (*kakegoria*) had been instituted with the aim of preventing people from getting carried away with abusive language and coming to blows with one another: blows could lead to wounds, and wounds to death (Dem. 54.17–19). Formally, however, cases of verbal and physical abuse were prosecuted by different suits – *dike kakegorias* and *dike biaiou*, respectively.¹⁰⁵

The question of the authorship of this legislation is only secondary to that of its importance for defining the status of *politai*. Ancient texts refer to the authorship of Solon. For example, the above-mentioned speech *Against Eubulides* implies that the law on slander was authored by Solon: having accused the defender of breaking this law, the speaker immediately requested to read aloud Solon's law prohibiting any alien (*xenos*) from doing business in the market.¹⁰⁶ Although some have rejected Solon's authorship of these laws,¹⁰⁷ others thought it possible either to ascribe them to Solon or to date them to the sixth century or to trace their "kernel" to Solon's legislation.¹⁰⁸ If Solon began to give *politeia* to foreigners who came to permanently settle and ply their trade in Athens (Plut. *Sol.* 24.4), it is only natural that the lawgiver who established the community of *politai* also allotted a special status and protection to them. Zaleucus, who founded *politeia* in Locri Epizephyri, is also known as the author of the law against speaking badly of all or any of the *politai* (Stobae. *Flor.* 44.21). If we accept the suggested dating of the Scamandrian decree to the early sixth century, then a similar protection of *politai* in Athens, both from physical and verbal abuse, probably formed a part of Solon's reform of the Athenian *politeia*.¹⁰⁹

Special consideration for the security of the *politai* also displayed itself in other ways, including attention paid by Greek cities to protecting *politai* from enslavement, either through being kidnapped by pirates or for some other reason. An honorific decree which dates to the third century B.C. by Aegae (IG XII.7, 386 = *Syll.*³ 521.4–28), a town on the island of Amorgos, provides us with the following interesting and important information:

Since when the pirates embarked on land in the night and captured girls and women and other people, both free and slaves, all together more than thirty persons, [and] destroyed the ships in the harbor and seized the ship

of Dorieus, with which they sailed away, having those people and everything else that they had taken; [and since,] as these events were taking place, Hegesippus and Antipater, sons of Hegestratus, who themselves were among the captives, succeeded in persuading Socleiadēs, who was commanding the pirates, to release free persons and those of freedmen and slaves, choosing to stay as hostages for them, [and] displaying every possible ambition, so that no one either from *politides* or *politai* (*mete tom politidom mete tom politon*) was either counted among the booty or sold or found himself in needs and plights, [and] so that no one of *politai* (*soma politikon*) be lost, but being saved through them, the captive persons would return to their places, the people (*demos*) decreed to crown Hegesippus and Antipater (each of them) with the crown of palm-leaves, because of [their] virtue etc.

Although the reference to captured females has been interpreted as meaning “citizen women,”¹¹⁰ the text of the inscription shows that the top priority of the city was the physical protection and the well-being of *politai* and *politides*. Likewise, the Ephesians honored the people of Astypalaea, who, having repelled the pirates, liberated the captured Ephesian *politai* and took care of them “just as of their own *politai*,” once again pointing to the status of *politai* as an especially privileged and protected group of people among the entire city population.¹¹¹ A similar interpretation should be given to the text that claims to be a speech of the orator Demades, in which he took credit for saving the lives of two thousand Athenian captives after the battle of Chaeronea, and bringing home the bodies of a thousand Athenian *politai* who died in that battle – all without any payment ([Demad.] 1.9: *khilia politon somata*). From this perspective, Aeschines’s words that “laws protect the bodies of people living in a democracy and the *politeia*” did not refer to all those who lived in the city but to the *politai*, the only people who shared in the *politeia*. It is not surprising, therefore, that not only *astai* but all *politides* were protected against sexual violence.¹¹²

Other Greek cities displayed a similar attitude toward *politai* as a group of people with the same legal and social status. Thus, the decree adopted by the people of Mytilene in connection with the so-called Exiles Decree issued by Alexander the Great ordered the restoration of exiles to be accompanied by a collective sacrifice to the gods for the safety and well-being of all the *politai*. Similarly, the introduction of new *politai* in the city of Itanos on Crete was accompanied by an oath that included a pledge not to betray “any one of the *politai*.” The honorific decree by the city of Phocaea for the city of Priene served to promote the well-being of the city and the *politai*.¹¹³ The well-being (*soteria*) of the *polis* directly depended on the well-being of all *politai*, regardless of how they obtained their status, i.e., either by virtue of their origins or as a gift. The safety of the *politai*, therefore, was to be especially protected.

The status of politai “by decree”

As a separate social group, all *politai* enjoyed some of the same rights and privileges in the city. However, the legal status of *politai* “by nature” and *politai* “by

decree” was not totally identical. The amount of rights and privileges allotted to *politai* “by decree” could change over time. Additionally, some of these rights and privileges could either be added to grants of *politeia* or awarded separately on an individual basis. Thus, evidence garnered from various parts of the Greek world points out how *politai* “by decree” received the right of intermarriage, or the *epigamia*. The corresponding evidence never concerns individual grants of *politeia*, but only grants of *politeia* to groups of people. For example, Demosthenes (18.91) quoted the decree of the Byzantines (and the Perinthians), who gave *epigamia* and *politeia*, as well as other privileges, to the Athenians, while, according to Polybius (4.33.5), the Arcadians not only gave *politeia* to Messenian exiles after the second Messenian war (ca. 640-ca. 630) but also decreed that their daughters be given in marriage to Messenians of the proper age. Xenophon (*Hellen.* 5.2.18–19) describes how the speech of the Acanthian embassy before the Spartans in 383 B.C. distinguished between those cities of the Chalcidian League that shared the *politeia* of Olynthus unwillingly and were ready to defect as soon as an opportunity came, and those cities that not only shared *politeia* with the Olynthians but also had the reciprocal rights of intermarriage (*epigamiais*) and *enktesis* with them. In the Hellenistic period, the city of Hierapytna granted *epigamia* together with “equal *politeia*” (*isopoliteia*) to Prianus, whereas Temnus allotted these grants to Teos.¹¹⁴ The cities of Messene and Phigalea exchanged their *politeiai* at the same time as they exchanged the right of *epigamia*, and similar situations are encountered elsewhere.¹¹⁵ Such evidence shows that grants of *politeia* did not necessarily bring along the right to *epigamia* and the right of *enktesis*, which could be allotted separately. This situation is exemplified by a set of agreements between the Aetolian and Acarnanian Leagues in the third century, which included the treaty of isopolity alongside the exchange of *epigamia* and the right of *enktesis*.¹¹⁶ Awarding such rights appears to have varied geographically. As noted above, the right to possess immovable property in the territory of the city was probably included in the Athenian grants of *politeia*, since we do not see these grants being awarded together with the right of *enktesis* (at least, not until the second century), whereas Athenian *politai* “by decree” are known to have enjoyed this privilege. Elsewhere, however, we often see *politeia* being awarded alongside the right of *enktesis*.

Another important difference was that the Athenian *politai* “by decree” did not obtain the right of intermarriage (*epigamia*) but the right of an engyetic marriage with Athenian *astai*. The earliest such evidence probably concerns the grant of the Athenian *politeia* to the Plataeans in 427, after the fall of Plataea to the Spartans and its destructions by the Thebans. According to the decision of the Athenian assembly, as quoted and then discussed in his own words by Apollodorus, the grant of the Athenian *politeia* enabled the Plataeans to arrange engyetic marriages with Athenian *astai*, and it allowed the children born in such marriages to have the status of “legitimate,” or *gnesioi*, and to join Athenian *gene*. Apollodorus mentioned that other Athenian *politai* “by decree” had this privilege as well. His words appear to be confirmed by the grant of Athenian *politeia* to the metics who acted in defense of Athenian democracy later in the fifth century: as a reward, they received the Athenian *politeia* and the privilege of arranging

engyetic marriages.¹¹⁷ The right of *politai* “by decree” to engyetic marriage with Athenian *astai* was based on another privilege that came along with the grant of *politeia* – the right of *enktesis*, which allowed its holder to possess immovable property in the territory of Attica. The holder of that privilege could recover loans on the security (*engye*) of immovable property, as did Pasio, a *polites* “by decree” in Athens, and metics in Byzantium, who were offered *politeia* for that purpose.¹¹⁸ Hence, recipients of *politeia* could also arrange engyetic marriage, which had to be secured by a surety.¹¹⁹ Since Athenian grants of *politeia* appear to have always included the right of *enktesis*, until at least the mid-Hellenistic period, *politai* “by decree” probably enjoyed the privilege of engyetic marriage with Athenian *astai* from the moment such grants started to be awarded in Athens. Therefore, we might push the date of the origins of marriages between *astai* and *politai* “by decree” back from the late fifth century, which is the time of the earliest documented evidence, to the early sixth century when, according to Greek sources, Solon initiated grants of *politeia* “by decree.”

The right to engyetic marriage, which belonged only to *politai* in Athens, was different from the right of intermarriage, or *epigamia*, which could also be offered to non-*politai* on an individual basis. However, as we have seen above, other Greek cities combined grants of *politeia* and *epigamia*, which suggests that either this practice had geographical variations or that the same word, *epigamia*, was used in a general sense, designating both the right to intermarriage and the right to engyetic marriage. The latter probably explains at least some of the joint awards of *politeia* and *epigamia* mentioned above, as well as the words of Isocrates (14.51) that the Plataean refugees, who received the *politeia* of Athens in the late 370s, also obtained the right of *epigamia* from Athens.

Other rights awarded separately to recipients of *politeia* included the right to pay equal taxes (*isoteleia*), which the people of Priene gave together with their *politeia* to all Athenians; the people of Chalcedon to Eudemus, son of Nikon, from Seleucea; and the people of Andros to someone whose name did not survive, together with his descendants.¹²⁰ Grants of *politeia* could also be awarded alongside *asylia* – or the right of inviolability, oftentimes with an exemption from contributions – on the import and export of a personal estate to or from the city’s territory, by land or by sea, in the time of war and in the time of peace. These grants were offered to, among many people, Mausolus of Mylasa by Erythrae, and Antigonus (Monophthalmos), who was then still a private person, by Priene.¹²¹ Such regulations concerned all *politai*, as seen in an oath sworn by each of the *politai* of Itanos (which included the pledge “not to abandon the *politeia* in war or in peace, as far as is in my power”), and in the trial of Leocrates, who had returned after seven years of absence and managed to narrowly escape – by a tied vote – death for high-treason and denial of being buried in Attica, because he had abandoned the city when Philip’s siege of Athens was widely anticipated after his victory at Chaeronea.¹²²

In some cases, specific rights added to the grant of *politeia* differed depending on the legal status of recipient(s). For example, the metics who received *politeia* did not have to pay the special tax on metics (the *metoikion*) because the grant of

politeia gave them a legal status equal to *politai*, who were certainly not obliged to pay this tax.¹²³ If *politeia* was given to people of some standing other than that of metics, the release from the *metoikion* did not have to be mentioned. It is noteworthy that, like some of the other above-mentioned privileges offered in addition to grants of *politeia*, the release from the *metoikion* could also be awarded as a separate gift, i.e., regardless of grants of *politeia*,¹²⁴ and as a part of grants of *isoteleia*, which could be given out separately from or together with grants of *politeia*.¹²⁵

Awards of *politeia* were often accompanied by the grants of *proxenia*, or the status of *proxenos*, a public friend or a person who offered shelter, protection, and various services in his city to those coming from the city that granted him this status. This evidence only emerges in the fourth century and grows considerably during the Hellenistic period, as we see in the above-mentioned cases of Mausolus of Mylasa, who was awarded *politeia* and *proxenia* by Erythrae, and Antigonus Monophthalmos, who received *politeia* and *proxenia* from Priene when he was still a private person.¹²⁶ As a pan-Hellenic practice, grants of *politeia* were not only awarded together with *proxenia* by Athens,¹²⁷ but also by Bargylia and Parium to someone whose name did not survive, from Alabanda; by Magnesia to Aischrion, son of Arybbas, from Aegae, among others; by Assus to Dionysodorus from Thasos; and by Erythrae to Neoptolemus, the son of Phycus, from Aetolia.¹²⁸ We also see awards of *proxenia* and *politeia* by Delphi,¹²⁹ Delos,¹³⁰ Lamia,¹³¹ Samos,¹³² Ephesus,¹³³ and many other cities.¹³⁴ Grants of *politeia* together with *proxenia* were routinely offered to foreign judges, like, for example, those from Clazomenae, Teos, and Chios by Iasus, and those from Erythrae by Mytilene.¹³⁵

Such evidence shows that awards of *politeia* often came together with rights and privileges that either were irrelevant to the status of those who had been considered citizens in ancient Greece or were a priori associated with the citizen status and, therefore, did not have to be mentioned at all.¹³⁶ Thus, grants of *proxenia* being awarded together with *politeia* have been explained by the fact that *politeia* and *proxenia* had different origins and meanings,¹³⁷ or by acknowledging *politeia* in such cases as a “potential” or “honorary grant,” or by the gradual confluence of the meaning of the words *proxenos* and *polites*, or by the division of responsibilities depending on in which city the *proxenos* found himself.¹³⁸

Grants of *epigamia* together with (*iso-*)*politeia* have either been explained by the use of the word *epigamia* “in a non-technical sense” (Harrison) or by presenting *epigamia* as the right to marry citizens (with all the necessary consequences) and, at the same time, understanding isopolity as a “potential” grant that still had to be “activated” (Gschntzer, Giovannini).¹³⁹ Explanations of the co-existence of grants of *politeia* with awards of other privileges, such as *isoteleia* or the right of *enktesis*, have been similarly diverse. For example, Ugo Paoli rationalized awards of *politeia* together with the right of *enktesis* by suggesting that this was a special sort of *politeia* that did not lead to the recipient’s enrollment, whereas Albert Billheimer concluded that “the only reason for mentioning *enktesis* in an Athenian decree of citizenship would be to limit, not to grant, the right of ownership.”¹⁴⁰ But, then, what sort of citizenship would it have been?

The fact remains that *politeia* could be given alongside various rights that were either inseparable from or irrelevant to being a citizen. This situation is probably explained by the historical development of *politeia*: it emerged as a consequence of the establishment of legal and social equality for the members of the kinship community, or the *astoi*. Their equal standing meant that they all shared the same rights and privileges in the city, thus forming a homogenous legal and social community, or *politeia*, to use a later concept in retrospect. When the status of *politai* began to be awarded to non-*astoi* – who, thus, became *politai* “by decree” – such people neither did nor could receive all the rights and privileges that belonged to *astoi* by virtue of their origins as members of the kinship community. Nor did the *astoi* as *politai* “by nature” need to have some of the rights specifically granted to them that were important for outsiders. For example, Conon received the status of *proxenos*, together with the immunity of the entire property (*ateleia panton khrematon*) and the right to enter and leave the territory of the city in the time of war and peace, from Erythrae, without obtaining *politeia*, even though he was given an option to become an “Erythraean,” which, in the language of the time, meant that he could have the *politeia* of Erythrae if he wished.¹⁴¹ Further evidence shows that grants of *politeia* did not necessarily have to accompany grants of the right to pay equal taxes (*isoteleia*),¹⁴² the right of *enktesis*,¹⁴³ or the status of *proxenos*.¹⁴⁴ Therefore, Aristotle (*Ath. Pol.* 58.2) referred to *proxenoi* and those who had the right to pay equal taxes (*isoteloι*) as resident aliens whose legal cases were administered by the Polemarch, whereas the legal cases of *politai* were the domain of the Archon, who was in charge of the property and legal affairs of the *astoi* or, in other words, of the kinship community in Athens (see chapter 1).

Conclusion

Grants of *politeia* emerged after Solon provided all *astoi* with the same social and legal status by virtue of their origins as members of the Athenian kinship community. By giving them the same status, which became designated in retrospect with the word *politeia*, he simultaneously homogenized the *astoi* and distinguished them from the rest of the population of Attica. This status was then offered as a privilege to resident and visiting aliens, who could not have it “by nature” because they were not born into the kinship community. In the later Greek tradition, it was Solon who introduced the practice of giving out grants of Athenian *politeia*. Other Greeks used this practice as well, including the Arcadians (who offered their *politeia* to the Messenians after the Second Messenian war), the Spartans (who were said to have given their *politeia* to Tyrtaeus and his brother at about the same time), and the Delphians (who offered their *politeia* to Croesus and any other willing Lydian). Since such evidence predates Solon’s reforms, it is possible that he borrowed this practice from elsewhere. At first, cities and other types of communities used their ethnics for that purpose (and this use of ethnics would continue for centuries to come), then the adverbial forms of *politeia*, and, finally, from the late fifth century, the noun *politeia* itself. Several inscriptions and Ps.-Xenophon’s *Athenian politeia* show that this noun originally designated a

community of people with the same privileged social and legal status in the city. *Politeiai*, therefore, consisted of the *politai* who had this status by virtue of their origins, as members of the kinship community, or through grants, and carried the same ethnics for all *politai*.¹⁴⁵

There appears to be no basis, therefore, to present *politai* as a “portion of the *astoi*” who monopolized political power as well as the “economic and other benefits derived from that monopoly.” While it is possible to speak of the *astoi* as a local population, simply because this is one of the characteristic features of the kinship community, there are no solid grounds for following Cohen’s “differentiation of the politically-defined *polites* from the territorially-determined *astos*.” Cynthia B. Patterson has already correctly observed that the “distinction *astos/polites* does not simply translate to civil/political.”¹⁴⁶ However, the major misconception in corresponding debates has been to identify both *astoi* and *politai* as citizens. Since the grant of Athenian *politeia* gave its recipient a legal standing equal to that of the *astoi*, Athenian *politai* “by decree” had the right of access to the same city officials and the use of the same laws as the *astoi*. They could represent themselves in legal cases without *prostatai*; they could participate in legal courts, popular assemblies, and other forms of legal and social activities; and they could profit from various economic benefits, such as the right to trade in the market place, to pay the same taxes, and to enjoy public distributions. Recipients of Athenian *politeia* also had the right of *enktesis*, or the right to possess immovable property in the territory of the city, which brought important economic and legal benefits, including the right to provide a surety and, therefore, to avoid “preventive imprisonment” in the course of litigation, as well as the right to engyetic marriages with Athenian *astai*. Children from such marriages counted as *gnesioi* and, accordingly, had access to all sacral and political positions in the city without exception.

The practice of grants of *politeia*, by Athens and other Greek cities, led to an important social transformation in ancient Greece: besides a division based on kinship, or into *astoi* vs. non-*astoi*, a new type of division emerged – into *politai* (who included both *astoi* as *politai* “by nature” and recipients of *politeia* “by decree”) and those who had no *politeia* in the city. It has already been noted that the “*xenos-polites* distinction” does not appear in any of the “Draconian texts” quoted by Demosthenes.¹⁴⁷ This point might seem insignificant, as the word *polites* did not exist in Draco’s time. However, its use by Demosthenes and his contemporaries reveals an important change. We need only to compare the cases of homicide in the legislation of Draco, which was only applicable to the *astoi*,¹⁴⁸ and in Demosthenes’s time, when the *politai* as a whole, or *astoi* and non-*astoi*, were opposed to aliens (*xenoi*), as two groups with distinct legal status.¹⁴⁹ Likewise, if texts from the sixth century and later juxtaposed *xenoi* and *astoi*,¹⁵⁰ those from later times also distinguished *xenoi* from *politai* as two opposite social groups.¹⁵¹ Edward E. Cohen perceptively noted that the dichotomy of *politai* vs. *xenoi* neither replaced that of *astoi* vs. *xenoi* nor ever became as visible. One of the reasons for this situation might have been that some *politai* were *xenoi* who had obtained *politeia* as a grant. Hence, even if such people could be categorized

as one group of *politai* together with *astoi*, who were *politai* “by nature,” they still were juxtaposed with the *astoi* as aliens who neither did nor could belong to the kinship community. Terminological nuances mirrored the sophistication of the social organization. Plato reflected the actual state of things in Greece in the fourth century when he distinguished between the legal status of slaves and aliens (*xenoi*) on the one hand, and *politai* on the other. All *politai*, regardless of whether they had *politeia* “by nature” or “by decree,” formed one separate group within the population of Athens and other Greek cities, and in Plato’s ideal state (e.g., *Lg.* 7, 794bc). This group comprised the legal community, which was not identical to the kinship community, as the two organizations only partially overlapped. What created the legal community was the same legal status of its members, which will be examined in the following chapter.

Notes

- 1 Dem. 22.30; Arist. *Ath. Pol.* 20.1 and *Pol.* 2.9.3, 1274a.7–8; Plut. *Sol.* 18.1–2. If Draco did not author the comprehensive legal code of Athens (this debate: page 55, n. 148), the history of the Athenian *politeia* began with Solon’s reforms.
- 2 E.g., [Xen.] *Ath. Pol.* 1.3–5, 2.19–20. For detailed discussions and bibliography, see Osborne (2004, 4–5); Marr and Rhodes (2008, 3–6, 31–32); Weber (2010, 20–25), who all dated this text to around the mid-420s. Pace Hornblower (2000, 363–384), advocating the date in the fourth century, largely on literary grounds. This view does not seem to have received any support.
- 3 On this division, see, e.g., Poll. 3.56; the *Suda*, Δ 451 (see page 303, n. 6), with Lipsius (1905–15, 412). On the word *demopoietos* as having emerged only in the fourth century: e.g., Carawan (2008, 389).
- 4 *Milet* I 3, 149.10–12 (ca. 187–186 B.C.?) with P. Herrmann, in *Milet* VI 1 (1997), 184–185, and a detailed commentary by Gauthier (2001, 117–127), who, however, did not touch upon this part of the text.
- 5 E.g., *Milet* I 3, 146.A (= *StV* 3, no. 539.I). 24–30: the treaty of isopolity between Miletus and Mylasa (ca. 209–208 B.C.), 149.10–12 (see preceding note), and 150 (= *Syll.*³ 633).57–65: the treaty of isopolity between Miletus and Heraclea by Latmus (ca. 185–184 B.C.).
- 6 See esp. Hansen (2004, 58–69).
- 7 *I. Olympia* 11.1–4 (ca. 500–c.475 B.C.); Hdt. 1.54.2 with Asheri *et al.* (2007, 114): “this would be the most ancient example of potential or honorary citizenship (*isopoliteia*) granted to members of an entire foreign community”; *IG* I³ 102 (= *IG* I² 110 = *ML* 85).15–17 (410–409 B.C.), with Lys. 13.70–72; cf. [Dem.] 59.104, 105–106.
- 8 *IG* I³ 127 (= *Syll.*³ 116 = *GHI* 96 = *ML* 94).12–13 (405–404 B.C.), with Ph. Gauthier, in *Bull.ép.* 1994.281; Riele (1987, 167) (= *SEG* 37, 340).3–4 (early fourth cent. B.C.).
- 9 E.g., Caillemer (1880, 39–40); Szanto (1892, 9–10); Busolt (1926, 227); Larsen (1957, 19–20); Paoli (1930, 198); Ehrenberg (1937, 150–151); Cataldi (1983, 358); Gawantka (1975, 23–24) (with n. 42); Bordes (1982, 50, 79–80); Osborne (1983 (3–4), 155–156); Riele (1987, 173); E. Miranda, in *Epigraphica Anatolica* 31 (1999), 153; Vestergaard (2000, 84); Fraser (2009, 26–28); Blok (2013, 162–163).
- 10 [Dem.] 59.104–106 and 89, respectively. Perdiccas: Dem. 23.200 and [Dem.] 13.24, with Osborne (1983 (3–4), 108–109) (PT 124), 121. Menon: Dem. 23.199, with Osborne (1983 (3–4), 20–23) (T 1). Hdt. 9.35.1. Pl. *Lg.* 1, 629a.
- 11 *IG* I³ 113.1–3 (411–410 B.C.), with D. M. Lewis’s references on p. 131 (ad II.1–2 and 7–10), to several previous restorations of this inscription, that included the word *politeia*.

- 12 Cf. *Syll.*³ 116 (= *GHI* 96 = *ML* 94).33, with the overview of Prandi (1982, 89), who used this evidence to make conclusions about *politeia*, and *IG* I³ 127.33–34 (405–404 B.C.).
- 13 *IG* II² 10.A.5–7 and *GHI* 100.5–7 (401–400 B.C.).
- 14 *IG* I³ 127 (= *Syll.*³ 116 = *GHI* 96 = *ML* 94).12–13 (see n. 8 above).
- 15 E.g., *Syll.*³ 172 (= *GHI* 141). 3–4, 7–8 (Ceos and Histiaiea, ca. 364 B.C.).
- 16 E.g., *IG* I³ 118 (= *Syll.*³ 112 = *GHI* 88 = *ML* 87 = *IG* I² 116).10–12 (408 B.C.) and 127 (= *Syll.*³ 116 = *GHI* 96 = *ML* 94 = *IG* II² 1).19–20 (405–404 B.C.). Both of the two main accepted datings of Pseudo-Xenophon's work fall within the second half of the fifth century: see note 2 above.
- 17 E.g., *R&O* 22 (= *IG* II² 43 = *GHI* 123 = *StV* 2, no. 257). 20–21 (the “charter” of the Second Athenian Confederacy, 377 B.C.); *IG* II² 226 (= *IG* II³ 411 = *Syll.*³ 228 = *GHI* 173).1–5 (the grant of *politeia* to Arybbas, the king of the Molossians, and his descendants, by Athens, 343–342 B.C.); *I.Priene* 2 (= *GHI* 186 = *Syll.*³ 278).7–8 (the grant to Antigonus Monophthalmos, ca. 332–328 B.C.?).
- 18 E.g., Billheimer (1938, 12–13); Cataldi (1983, 358).
- 19 E.g., Busolt (1926, 227); Henry (1983, 63); Osborne (1972, 144, 150–151); Gauthier (1986, 131); Liddel (2007, 180).
- 20 Dmitriev (2005, 101–102). Cf. the use of the ethnic in *I.Erythrai* 6 (= *LW* 39 = *Syll.*³ 126 = *GHI* 106).10–11 (394 B.C.) and of the word *polites* in *I.Erythrai* 8 (= *Syll.*³ 168 = *GHI* 155).6–7 and *SEG* 31, 969.8–18 (ca. mid-fourth cent. B.C.).
- 21 *IG* II² 103.30–32 (368 B.C.); Meritt (1935, 378), no. 3.23–27 (ca. 334 B.C.?). *Milet* I 3, 137 with *Milet* VI 1, p. 171 (= *StV* 3, no. 409).13–16 (Miletus and Cyzicus, 334–323 B.C.).
- 22 E.g., *IG* II² 654.46–47 (288 B.C.), 663.21–22 (ca. 280s B.C.?). *IG* IX.1², 4.32–33 (Thermus in Aetolia, ca. third cent. B.C.); *I.Ephesos* 1415 (Hellenistic period?).
- 23 Tyrtaeus: e.g., Pl. *Lg.* 1, 629a and Plut. *Apophth. Lac.* 230d, who, therefore, contradicts the above-mentioned statement of Herodotus 9.35.1 (see n. 10 above). Euagoras: Isocr. 9.54 and [Dem.] 12.10.
- 24 [Dem.] 59.104–106; *IG* II² 226 (= *IG* II³ 411 = *Syll.*³ 228 = *GHI* 173).1–5; *IG* II² 237 (= *IG* I³ 316 = *Syll.*³ 259 = *GHI* 178).15–21.
- 25 Luc. *Scyth.* 8 (with reference to Theoxenus); Plut. *Sol.* 24.4, accepted by Rhodes (2006, 256–257).
- 26 E.g., Szanto (1892, 5, 105); Busolt (1926, 227–228); Glotz (1928, 179); Paoli (1930, 198, 284); Lonis (1983, 104); Prandi (1982, 9); Sealey (1983, 98); Stein-Hölkeskamp (1989, 153); Ober (1989, 67, 1996, 119) (identifying “the Athenians” with *demos* as “the whole of the citizen body”); Welwei (1999, 253); Patterson (1994, 210, 2005, 270); Mossé (1995, 15); Hansen (1996, 169, 172, 2006, 60); Lape (2010, 10–13).
- 27 M. N. Tod ad *GHI* 96, p. 233; Bickerman (1958, 334–335); Ostwald (1988, 304); Andrewes (1992, 495).
- 28 The Plataeans: appendix 3. The Pidaseans: *Milet* I 3, 149.10–12 (see n. 4 above). See pages 158–159, nn. 36–38.
- 29 E.g., Larsen (1968, xi–xxviii), incl. xiv–xv on “federal government” and on *sympoliteia* as “federal citizenship”; Rzepka (2002, 226, 244–247).
- 30 Osborne (1972, 152, 152 n. 97), respectively; Giovannini (2007, 309). On (*iso-*)*politeia* as “potential citizenship,” see Szanto (1892, 86–87); Larsen (1968, 203, 207); Klose (1972, 143); Gauthier (1972, 347–348, 360); Gawantka (1975, 123–125, 133); Gschnitzer (1981, 123); Walbank (1984, 235); Gauthier (1986, 130); Will (1998, 618); Vestergaard (2000, 105); Heller (2012, 12); Rhodes (2012c, 749).
- 31 E.g., Gawantka (1975, 22–23, 27–29, 31); Ducat (1992, 39); cf. Davies (2012a, 320).
- 32 E.g., Savalli-Lestrade (1985, 410–411); Will (1998, 617–618); Giovannini (2007, 309); Heller (2012, 12). Cf. Wilhelm (1951, 23–24).
- 33 Paoli (1930, 285); Osborne (1972, 152–153); Gauthier (1985, 151, 197); Gschnitzer (1981, 123). See also Szanto (1892, 56); Savalli-Lestrade (1985, 427); Hornblower (1991, 449); Jones (1991, 79), followed by Lonis (1992a, 247).

- 34 E.g., Caillemer (1880, 17–18, 21–26); Francotte (1910, 199); Carlier (1992, 112); Gschnitzer (1997, 418–419); Niku (2007, 104); Lape (2010, 59); Kamen (2013, 79); Deene (2014, 157); Canevaro (2016, 243). Gauthier (1985, 150).
- 35 Perdiccas: Dem. 23.200 (ca. 479 B.C.); Sadocus: Thuc. 2.29.5 (431 B.C.); Euagoras: Isocr. 9.54 (ca. 405 B.C.); Dionysius: *IG II²* 103.30–32 (369–368 B.C.); cf. [Dem.] 12.10 (Philip's letter to Athens); Leucon: Dem. 20.30 (ca. 355–354 B.C.); Orontes: *IG II²* 207 (= *IG II³* 295).6–7 (D. Kelly, in *ZPE* 83, 1990, 96–109; after 357 B.C.; S. D. Lambert, in *IG II³* 295: 349–348 B.C.?); Arybbas: *IG II²* 226 (= *IG II³* 411 = *Syll.³* 228 = *GHI* 173).1–5 (343–342 B.C.); Philip II: [Dem.] 12.10; Plut. *Dem.* 22.4. See also, e.g., *IG II²* 654.46–50: Audoleon, the king of the Paeonians, and his descendants (286 B.C.) and Polyaen. 6.7.2 (on Apollodorus in Cassandrea).
- 36 Segre, no. ED 178a(A).15–19 (late third cent. B.C.), with Bremen (2003, 324) on *politides* as “female citizens.”
- 37 *PH* 10a (= Segre, no. ED 206a = Migeotte 1992, no. 50).7–11 (late third–early second cent. B.C.). On these *politides* as “les citoyennes”: e.g., C. Vial, in ed. R. Lonis 1992, 291; cf. Migeotte (1992, 158).
- 38 *I.Priene* 8.16–17 (ca. 328–327 B.C.), 108.49–50 (after 129 B.C.), 109.193–194 (ca. 120 B.C.).
- 39 *I.Priene* 123.7–9 (early first cent. B.C.) and 113.42–43 (after 84 B.C.).
- 40 *I.Kyme* 13.48–50, 75–76 (after 130 B.C.); *F.Delphes* 3.2, 139 = Jacquemin *et al.* (2012, 326–327), no. 182.3–4 (an Amphictyonic decree, early first cent. B.C.).
- 41 Charondas: Diod. 12.12.4. Solon: Pl. *Lg.* 7, 804cd. Cf. Robb (1994, 129) (with 152 n. 9): “an especially absurd example of literacy,” interpreting it as if “great Solon himself . . . required all Athenian fathers to give their male children (and in another version, also female children) an adequate schooling in letters at an early age, making him the first champion of a legislated popular literacy,” and arguing that this contradicts others of Plato's own references that the education of children depended on the will of the family and its financial means. For Athenians' knowledge of the laws of Charondas, see *FGrH* 1026 (Hermipp.), F 5 (see page 83, n. 35). A similar attitude survived into much later times, although the money came from private funds: *I.Xanthos* 67 = *SEG* 30, 1535.24–25 (after A.D. 152).
- 42 *IG XII.5*, 647 (= *Syll.³* 958).9–11 (third cent. B.C.).
- 43 *I.Priene* 14 (= *OGI* 11).20–23 (ca. 286 B.C.) and 105 (= *OGI* 458 = Sherk 1969, no. 65.A).20–23 (ca. 9 B.C.); *I.Mylasa* 155.10–11 (the Hellenistic period), with Ph. Gauthier, in *Bull.ép.* 1989.14, p. 364.
- 44 E.g., Schol. Aristoph. *Vesp.* 718, and *FGrH* 328 (Philochor.), F 119, with a discussion of this episode in chapter 5.
- 45 *IG II²* 657 (287–286 B.C.) = Bagnall and Derow (1981), no. 13 (283–282 B.C.); for archonship of Euthios, whose office dated this text, as belonging to 283–282, see B. D. Meritt, in *Historia* 26 (1977), 173 and Osborne and Byrne (1994, 169). Oliver (2007, 286–287) argued that the text mentioned two separate donations by Lysimachus, with reference to *IG II²* 657.9–14 (299–298 B.C.) and 31–36 (286–282 B.C.).
- 46 *Theorika*: Harp. E 153 and Ø 19; see also Dem. 3.12, [Dem.] 44.37; Hyper. 1.26. Military reviews: Isocr. 7.82.
- 47 *IG II²* 10.A (= *GHI* 100).5–7 (401–400 B.C.).
- 48 *OGI* 229 (= Michel 19 = *I.Smyrna* 573 = *I.Magnesia am Sipylus* 1 = *StV* 3, no. 492).39 (ca. 245–243 B.C.?); *StV* 3, no. 545.14–18 (ca. 205–200 B.C.).
- 49 *OGI* 437.59–62 = *I.Ephesos* 7.II.4–7 (second or first cent. B.C.) together with the commentary by W. H. Buckler and D. M. Robinson, in *Sardis* VII.1 (Leiden 1932), 15 (with other similar cases); *SEG* 39, 1426.34–36 and 45–49 (ca. 238 B.C.), with the commentary by C. P. Jones and C. Habicht, in *Phoenix* 43 (1989), 317–346; repr. in Habicht (2006, 243–274). Even if this text only reflected a project of isopolity, as argued by S. Saba, *Dike* 15 (2012), 159–170, whose argument is not compelling, it still outlined basic consequences of establishing *isopoliteia* between cities.

- 50 *I.Cret.* III (iii), 4.15–18, 18–21, 25–27, and 28–30 respectively (early second cent. B.C.).
- 51 Lys. 23.2. For the Plataean *politeia*, see appendix 3. For a distinction between being a member of the deme and being registered in a deme, see chapter 6.
- 52 Arist. *Ath.Pol.* 58.2. See Krentz (1986, 204); cf. Whitehead (1977, 92–93); Patterson (2000, 97).
- 53 Arist. *Pol.* 3.5.10, 1280a.37–38 and 3.5.11, 1280a.40-b.1. Cf. Cic. *De leg.* 1.23: “Those who have law in common have justice in common (*communio legis* . . . *communio iuris*). However, those who have these things in common must be held to belong to the same *civitas*.”
- 54 Cf. Arist. *Ath.Pol.* 56.6–7 and 58.3 (= Harp. II 78) with Rhodes (1981, 629–633).
- 55 *I.Cret.* IV 13g-i, 80 (= *StV* 2, no. 216).8, with Gehrke (1997, 55) (and n. 163); Davies (2005, 317, 319); Seelentag (2015, 285, 305) (who reserved *astia dika* for *astoi* as “citizens”). Cf. the “*kosmos* of foreigners” (*ksenios kosmos*): *I.Cret.* IV 14g-p; 30; 53 A (? , with the editor’s commentary *ad loc.*); 72, col. XI.16–17; 78.4; 79.15–16, with Kirsten (1936, 76–78, 163); Willetts (1955, 206, 1967, 13); Hölkeskamp (1994, 152, 1999, 122); Seelentag (2015, 295–296).
- 56 Stymphalos: *IG* V.2, 357 = *StV* 3, no. 567 = Thür and Taeuber (1994), no. 17, vv. 24–26 and 56, tr. H. H. Schmitt (368) with Thür and Taeuber (165, 168, 178 n. 33) as “citizen litigation” (“Bürgerprozess”) and juxtaposed with “alien litigation” (“Fremdenprozess”). Tegea: *Syll.*³ 306 = *GHI* 202 = Thür and Taeuber (1994), no. 5, vv. 24–25, 26–28, 32 (324 B.C.), with Dmitriev (2004, 351–354).
- 57 *Milet* I 3, 146.A (= *StV* 3, no. 539.I = *I.Mylasa* T 51).41–43, dated to 215–214 by M. Wörle and P. Herrmann (*Milet* VI.1, p. 178) and to 209–208 by H. H. Schmitt and W. Blümel (*I.Mylasa* T 51), and 150 (= *Syll.*³ 633).65–67 (ca. 185–184 B.C.?).
- 58 Arist. *Ath.Pol.* 41.1–3; Strabo 9.1.20, C 398; *FGrH* 228 (Demetrius of Phalerum) T 1 = Diog. Laert. 5.80.
- 59 On this right of *politai* “by decree”: e.g., Busolt (1926, 294); Paoli (1930, 284); Lonis (2000, 72).
- 60 Dem. 45 and [Dem.] 59; Lys. 12 and [Plut.] *Lys.* 835f-836a. The importance of this evidence has been downplayed. While Bearzot (1997b, 34–35) noted that Lysias himself delivered his speech against Eratosthenes, i.e. without a *prostates*, she curiously did not adduce this fact when discussing Lysias’s status (44–47). The idea that Lysias ever received Athenian *politeia* has generally been rejected: see, for example, Osborne (1983 (3–4), 12–17); Mossé (1995, 21); Todd (2007), 6 n. 20, and 13–14 (with bibliography) seems to be skeptical about Lysias’s *politeia*. Cf. the view that the speech could have been written for circulation: Carawan (1998, 376–377). Neither Schol. Aeschin. 3.195 [438a] nor Schol. Hermogen. *Staseis* (Walz 5: 1833, 343.10–17) – the two pieces of evidence that say that the decree (*psephisma*) to grant *politeia* to Lysias was overturned as illegal (*paranomon*) – indicates the time period between the grant and the moment it was revoked: Lysias received *politeia* and certainly enjoyed it for some time, although clearly not for long. For the latter view, see also Edwards (2015, 208), who certainly referred to it as “Athenian citizenship.”
- 61 E.g., Arist. *Ath.Pol.* 57.3 and *Pol.* 3.1.3, 1275a.12–13; Isocr. 8.53; Aristoph. *Pax* 684–685 and Schol. Aristoph. *Pax* 685; Harp. A 218; Poll. 3.56, 8.35; the *Suda*, II 2809 = Phot. *Lex.* s.v. *πολιται*. See Busolt (1926, 294); Gerhardt (1933, 47–53); Gauthier (1972, 126–136); Lonis (2000, 72); Hunter (2000, 16, 20, 22); Patterson (2000, 95); Kapparis (2005, 106–108).
- 62 Corresponding studies refer to this right as having belonged exclusively to “citizens,” once again confusing an individual’s kinship status with his civic, or political, status: see nn. 74–75 below. An individual’s need to have a *prostates* was therefore closely linked to his economic activity, especially if he was a metic, and it should not be only limited to legal representation, like by Wijma (2014, 33); Mack (2015, 74–75).

- 63 Dem. 24.131: persons convicted of *xenia* would need to remain in prison until the second trial came to court. Security (*engye*) in the form of one's person and one's property: Herrmann (1990, 108). "Preventive imprisonment": Gauthier (1972, 194–195).
- 64 [Dem.] 49.2, 11, 61, with Bianco (2007, 98–101).
- 65 D.H. *Lys.* 32 and *Lys.* 34.3 = D.H. *Lys.* 33 (see also page 244, n. 24). Finley (1951, 56, 58). For other examples of the insensitivity of modern studies on ancient Greek economy to the diverse social status of the population in ancient Greek cities, see *The Cambridge Economic History of the Greco-Roman World*, ed. W. Scheidel *et al.* (2007), which referred to "citizens" and their privileged economic status only in the introduction, and made three references to metics in the index, which had no entries on freedmen and *politai*, and a grand synthesis by A. Bresson, *The Making of the Ancient Greek Economy*. Tr. S. Rendall (Princeton and Oxford 2016), which only (216) noted that "the principle that land should be reserved for citizens alone was naturally a way of keeping the land for oneself. But inversely, the same principle also provided a way of limiting wealth." Both the economic and social situation in ancient Athens and other Greek cities was more complex.
- 66 Harp. A 218: every metic chose a *prostates* for himself from among the *politai*. *IG* V.2, 357 = *StV* 3, no. 567 = Thür and Taeuber (1994), no. 17.173–176 (Stymphalos, ca. 303–300 B.C.), who translated *politai* as "citizens," i.e. like they translated *astoi*: see n. 56 above. Cf. *astoi* as *prostatai* in the *Suda*, N 166, and *politai* as *prostatai* in the *Suda*, Π 2809.
- 67 *IG* II³ 337.36, 40–41, and 42–45, respectively (333 B.C.), with Henry (1983, 204–205).
- 68 *IG* II² 206 (= *IG* II³ 294).23–24 (348 B.C.); see also *IG* II² 53 (before 387–386 B.C.), 130.15 (355 B.C.), 554.29–30 (306–305 B.C.): at least the first two decrees also awarded *proxenia* together with *enktesis oikias*. See Henry (1983, 204–205). For grants of the right of *enktesis* of land and houses as separate privileges, see Finley (1951, 60–61).
- 69 E.g., the grant of *proxenia* and the right of *enktesis* to the merchant Heraclides of Salamis and his descendants: *IG* II³ 367.19–20 (324 B.C.). But see Marek (1984, 158) (with 406 n. 192): on legal limits being imposed on the size, location, and value of the landed property, with reference to evidence from Delos.
- 70 E.g., Millett (1991, 224–229) (with earlier bibliography); Hunter (2000, 16); Harris (2006, 163–206).
- 71 *Hesperia* 10 (1941), 14–17 no. 1 (367–366 B.C.), with Finley (1951, 36, 1953, 473–491); Biscardi (1999, 185–189). Similar cases: Finley (1951, 20). Cf. Harris (2013a, 125–126), who criticized Finley for "argu[ing] that real security in Athenian law in particular and Greek law in general was substitutive and not collateral," so that the creditor "is not interested in the cash value of the security but in the security as property for his own use," while the borrower "cannot make further loans on the security after pledging it to the creditor," and a similar stance in Harris (2016, 128).
- 72 E.g., *IG* II³ 367.19–20 (324 B.C.), 432.13–17 (327–325 B.C.).
- 73 See esp. J. Pečírka, in ed. R. Lonis 1992, 280.
- 74 E.g., Finley (1951, 22) (see page 165, n. 136); Kränzlein (1963, 36, 38); Lacey (1968, 146); Ehrenberg (1969, 39, 42); Stelzer (1971, 10–23, 272–273); Marek (1984, 158); Faraguna (1997, 16); Oliveira Gomes (2007, 70); Brun (2010, 123); Leão (2012, 142); Rhodes, (2012b, 506); Kamen (2013, 98); Phillips (2013, 176); Deene (2014, 152); Hall (2014, 214); Mack (2015, 124).
- 75 [Dem.] 50.8, with Busolt (1926, 965) (with n. 3); Harrison (1968, 238); Roussel (1976, 274); Whitehead (1986a, 75–77).
- 76 Phormio: [Dem.] 47.56. Pasio: [Dem.] 36.30. Apollodorus's *politeia*: Dem. 45.78. Apollodorus's immovable property: [Dem.] 50.13, 61. Archestratus: Isocr. 17.43–44, with chronological observations in Trevett (1992, 2–3).
- 77 See Kränzlein (1963, 39); Pečírka (1966, 152–159), who listed all known Athenian grants of the right of *enktesis* from ca. 429 to the second century B.C.

- 78 *IG I³ 102* (= *IG I² 110* = *ML 85*).15–21 and 30–34, respectively (410–409 B.C.).
- 79 Cf. Trevett (1992, 163): “Pasion took the opportunity provided by his grant of citizenship to move money into landed property.”
- 80 [Dem.] 46.22. On Archippe as a “citizen woman”: Pomeroy (1997, 185); as either a *xene* or an *aste*: e.g., Omitowaju (2002, 81) (who interpreted *aste* as a “citizeness”); as a *xene*: e.g., Caillemer (1880, 29); as a *metic*: e.g., Carey (1991, 84–89). Cf. Whitehead (1986b, 113): with reference to Apollodorus’s statement ([Dem.] 46.23) that if Phormio had wanted to proceed properly he should have entered his claim for Archippe as an heiress “before the archon if he claimed her as a citizen, and before the polemarch if as an alien,” followed by Trevett (1992, 19). Pomeroy’s attempt (1997, 186 n. 98) to solve the situation by asserting that “Archippe must have inherited the building, not the land on which it stood” is not convincing: both buildings and land were counted as immovable property, which implied that the owner had the right of *enktesis*. No help comes from the suggestion of Kennedy (2014, 100) that “Archippe was granted citizenship along with her spouse Pasion,” but she was only given “temporary citizen status,” and, once Pasion died, “her status must have reverted to *metic*.” This does not explain Archippe’s control of the immovable property after Pasion’s death either.
- 81 Karnezis (1972, 208–209, 217) correctly noted that Archippe’s status was not that of an *epikleros* but that of *kleronomos*, because she was not given in marriage to Phormio by her father, homopatric brother, or her grandfather on her father’s side (cf. [Dem.] 46.18; see page 44, n. 14), and her son Apollodorus was of age. Most important, however, Archippe was not an *aste* but a *politis* “by decree.” Hence, neither enkyetic marriage nor *epidikasia* was applicable to her, and her husband could give her in marriage to someone else.
- 82 J. Bousquet, in *REG* 99 (1986), 31 = *SEG* 36, 1220 (202–201 B.C.).
- 83 *I.Olympia* 11 (ca. 500–475 B.C.); Xen. *Hellen.* 5.2.18–19; *IG V.2*, 11 (= Thür and Tauber 1994, 342, no. 36c).2–12 (Tegea, 362–361 B.C.).
- 84 *I.Priene* 2 (= *GHI* 186 = *Syll.*³ 278).9 (ca. 332–328 B.C.?); *IG XII Suppl.* 245.4–10 (fourth cent. B.C.); Segre, no. ED 71c(B).4–5 (Cos, late fourth cent. B.C.); Herrmann (1979, 242–249) (= *REG* 93, 1980, 445–446, no. 437 = *SEG* 29, 1149).13–19 (late third–early second cent. B.C.); Robert and Robert (1983, 153 no. 15.21–23) (201 B.C.).
- 85 Thrasybulus: *IG I³ 102* = *IG I² 110* = *ML 85*; Arist. *Ath.Pol.* 40.2. Lysias: D.H. *Lys.* 32; *Lys.* 34.3 = D.H. *Lys.* 33; on the status of Lysias, see n. 60 above.
- 86 Athens: Dem. 23.65. Since this formula was not used in Athenian grants of *politeia*, Dem. 23.65 was more of a reflection of the consequence of such grants. According to Canevaro (2013, 204–205), Dem. 23.65 might have served as the basis for a later forgery, which introduced a similar clause in [Dem.] 59.104 (see pages 283–284 and 286, n. 14). For the use of this formula in grants of *politeia* elsewhere, see, e.g., *Milet* I 3, 143.A (= *StV* 3, no. 537.I).20–21, 23–27 (212–211 B.C.) and 146.A (= *StV* 3, no. 539 = *I.Mylasa* T 51).30–35 (215–214 or 209–208 B.C.); *I.Cret.* III (iii), 4.14–15 (early second cent. B.C.).
- 87 *SEG* 38, 1193.8–11 (Miletus, 330–320 B.C.); J. Robert and L. Robert (1983, 153 no. 15.21–23) (201 B.C.).
- 88 *SEG* 39, 1426.34–36 (ca. 238 B.C.) and 43, 703.8–13 and 704.5–8 (Euromus, third cent. B.C.).
- 89 *Milet* I 3, 150 (= *Syll.*³ 633).43–44 with Herrmann (2001, 112, 114) (ca. 185–184 B.C.).
- 90 E.g., Lipsius (1905–15, 651) (with n. 56); Wallace (1994, 115–116); Patterson (1998, 130, 172).
- 91 Hunter (1992, 273) (with bibliography), 278. See also, e.g., Patterson (1998, 172); Cohen (2000b, 115).
- 92 MacDowell (1962, 92). Cf. Patterson (1998, 131): “this protection of the person was a legacy from Solon.”
- 93 MacDowell (1962, 92); Wade-Gery (1958, 146) (with n. 1); Edwards (1995, 171).

- 94 E.g., E. W. Bushala, in *GRBS* 9 (1968): 61–68 and *AJP* 90 (1969): 65–72; C. Carey, in *Historia* 37 (1988): 241–245 (who, however, limited his examination to cases involving either committing a murder or inflicting a wound); Gagarin (1996, 2–3), who, however, limited his discussion to “evidentiary torture.” The only case Gagarin mentioned in which a citizen was probably subjected to torture concerned Antiphon, even though, as Gagarin observed (2 n. 11), “it was not absolutely clear whether the torture [of Antiphon] took place before or after conviction (or both).” If Antiphon had lost his *politeia*, he did not count as a “citizen,” if we apply the term used by Gagarin, at the moment of his interrogation: see page 206, n. 47.
- 95 E.g., MacDowell (1962, 92–93); Harrison (1971, 150); Halperin (1990, 96); Hunter (1992, 278–279, 1994, 154, 176, 181–184); Edwards (1995, 171); Pepe (2011, 219 n. 4, 221–224, 235), who identified “citizens” as *politai* and saw the use of torture as a distinguishing mark between *politai* and non-*politai*; Harris (2013b, 11).
- 96 Unless, of course, someone else presented himself as a surety: see, e.g., Antiph. 5.18–19: the Mytilenean Euxitheus decried his pre-trial imprisonment because of a lack of sureties as both disgraceful and impairing his ability to prepare for the trial; [Dem.] 33.27–28: Apaturius alleged that the unnamed defendant was surety for Parmeno; and [Dem.] 59.40: Neaera’s sureties were three *demotai*, i.e. *gnesioi* and, therefore, *politai* “by nature.” See also Herrmann (1990, 108) on several guarantors as a better option for the creditor, and Gauthier (1972, 195–196) with further relevant evidence suggesting that offering three guarantors was quite common.
- 97 See esp. Whitehead (1977, 93, 127–129); Hunter (2000, 23).
- 98 On summary arrest: Hunter (2000, 21–22) (with bibliography).
- 99 E.g., Harrison (1968, 165–166); Meyer (2010, 32) (with n. 83). Such observations hold *politai* as “citizens,” however.
- 100 Dem. 57.30–31 (= Martina 1968, F 480). Solon’s authorship was rejected by Ruschenbusch (1966), F 117; for dating this regulation to a later period, see Phillips (2013, 125, 132); Leão and Rhodes (2015, 178–179). See also n. 108 below.
- 101 *IG I³* 104.27–28; [Dem.] 43.57, 47.70 (see page 12, n. 34).
- 102 Dem. 57.31–34 (see also n. 100 above), who defined these payments as *ta xenika* and, thus, distinguished them from the tax paid by resident aliens, *to metoikion*. For the *diapsephismos* of 403–402, see chapter 5. Niku (2002, 46) referred to these “market taxes” as “smallish,” suggesting that they “were not very significant in emphasizing the status differences of citizens and non-citizens” because, as she noted, avoidance of the payment of the *metoikion* (on this tax, see below) was punishable by death, whereas the avoidance of paying market taxes only prevented one from doing business in the market. However, it has been argued that Athens’ income from the *metoikion* was in fact quite substantial: Kapparis (2005, 108) (with sources and bibliography). In addition, the *metoikion* was imposed only on resident aliens, i.e. not on all foreigners who did business in the market, whereas the *xenikon* served as a clear indication of one’s social status in the city.
- 103 Athens: e.g., Pasio and members of his family, including Archippe: see above; Osborne (1983 (3–4), 187–188), and also [Dem.] 36.29, 30; Dem. 45.63; Din. 1.43. Other cities granting their *politeia* to merchants: e.g., *SEG* 38, 1193.8–11 (Miletus, 330–328 B.C.; see n. 87 above); *SEG* 39, 1159 (Ephesus, ca. 325–275 B.C.); *Syll.*³ 354 (= *I.Ephesos* 1455).⁷ (ca. 300 B.C.), 493 = Michel 346 = *IG XI.4*, 1055 (ca. 230–220 B.C.).
- 104 This evidence: Ritchie (1984, 721–723) as part of his study on the boundary stones of the Agora as a sacred space.
- 105 Isocr. 20.3; Dem. 21.33; Lys. 10.6–11: such words included “murderer” and “father-beater,” with the latter definitely threatening one’s chances to inherit the patrimony. For verbal assault not falling under *graphe hybreos*: Lipsius (1905–15, 423); see also Phillips (2013, 124–125).
- 106 Dem. 57.31 (see nn. 100 and 102 above, and next two notes). Plutarch (*Sol.* 21.1–2) might have hinted at this law when he referred to Solon’s specific prohibitions against

- speaking ill of the dead and of those who were present in temples, law courts, public offices, and festivals.
- 107 Drerup (1897, 297–298); Ruschenbusch 2050, 68, 72; Gagarin (1979, 234); Harris (2006, 4) and E. M. Harris, in Canevaro (2013, 224–231) (“a later forgery”); Barta 2.2: (2011, 147, 157, 168), and n. 100 above.
 - 108 Solon’s authorship: Fisher (1992, 68–82, 1995, 48, 75, 2001, 140); Wees (2011, 118, 122–124). The sixth century: D. M. MacDowell, in *G&R* 2nd ser., 23 (1976), 24, 26 (the date), 31 n. 23; MacDowell (1990, 263). See page 81, nn. 1–2.
 - 109 See Lipsius (1905–15, 646–647); Th. Thalheim, in *RE* 10 (1919), 1524–1525; Hillgruber (1988, 4–6) with an overview of the debate about whether the law against slander was part of Solon’s legal reform, which he thinks it was. Wade-Gery (1958, 146) marked the archaic phrasing of the ephebic oath in Poll. 8.106 as a possible indication that the Scamandrian decree predated Cleisthenes’s reform.
 - 110 E.g., Brulé (1978, 57); Bielman (1994, 141–144 no. 38); Robert (2007, 97).
 - 111 *IG* XII.3, 171 = *I.Ephesos* 5 (ca. 85 B.C.), with Ph. Gauthier, in *RPh* 64 (1990), 66.
 - 112 Aeschin. 1.4–5; Lys. 13.68 (*gynaikas ton politon*), with appendix 2.
 - 113 *OGI* 2 (= *GHI* 201 = *SEG* 30, 1041).38–41 (324 B.C.), with Dmitriev (2004, 357–361); *Syll.*³ 256 (= *I.Cret.* III [iv] 8).9–15 (Itanos, late third cent. B.C.); *I.Priene* 64.8–9: *epi soteriai tes poleos kai ton politon* (ca. 190 B.C.).
 - 114 *I.Cret.* III (iii), 4.12–15 (early second cent. B.C.); Herrmann (1979, 242–249) (= *REG* 93, 1980: 445–446, no. 437 = *SEG* 29, 1149).11–13 (late third–early second cent. B.C.).
 - 115 *IG* V.2, 419 (= *Syll.*³ 472 = *StV* 3, no. 495 = Thür and Taeuber 1994, 297–298, no. 28).9–13 (Messene, ca. 240 B.C.?) and next note.
 - 116 *StV* 3, no. 480 (= *IG* IX.1², 3).11–13 (ca. 262 B.C.).
 - 117 [Dem.] 59.92 and 106 (see pages 283–284 and 286, n. 14), and *IG* II² 10. The evidence of [Dem.] 59 undermines Kolbe’s opinion (1921, 243, 245) that *politai* did not receive engytic marriage, and accordingly, overturns his suggested restoration and interpretation of *IG* II² 10: he believed (246) that this decree honored two groups of people, who had received the awards of *politeia* and the right of engytic marriage (with other privileges), respectively, whereas, in fact, these were the same people.
 - 118 [Dem.] 36.6 and Arist. *Oecon.* 2.2.3, 1347a.1–4: for both episodes, see above.
 - 119 See page 45, n. 21.
 - 120 *I.Priene* 5.6–9 (ca. 331–328 B.C.?): *I.Kalchedon* 1 (= *Syll.*³ 645).71–73 (172 B.C.), and also 4 (= Michel 540).2–3 (ca. second cent. B.C.); *IG* XII Suppl. 245.4–10 (Andros, fourth cent. B.C.).
 - 121 *I.Erythrai* 8 (= *LW* 40 = *Syll.*³ 168 = *GHI* 155).7–9 (ca. 357–355 B.C.); *I.Priene* 2 (= *GHI* 186 = *Syll.*³ 278).11–12 (ca. 332–328 B.C.?). For the right of *asylia* and the status of *asylotai*, see Bravo (1980, 747–750, 781).
 - 122 *Syll.*³ 526 (= *I.Cret.* III [iv] 8).36–38 (late third cent. B.C.) and Lycurg. 1, respectively. See Aeschin. 1.252 mentioning a certain unnamed person who was immediately punished for sailing away from Athens to Samos. For death as the punishment for high treason, see appendix 1. Cf. the law that prohibited metics from moving away from the city in wartime – which we know only, it appears, from Athens (Din. 3.29 and 33), but which was probably in use in other cities as well.
 - 123 This tax and exemptions: Gerhardt (1933, 24–33); Gauthier (1972, 121–122); Kaparis (2005, 108–110); Niku (2007, 86–89).
 - 124 Cf. the release from the payment of the *metoikion* without a grant of *politeia*: e.g., Dem. 23.211 (Aegina) and *Syll.*³ 185.30–35 (Athens, ca. 367 B.C.) and the grant of *politeia* together with a release from paying the *metoikion* in *Syll.*³ 259.25–28 (Athens, 338–337 B.C.).
 - 125 Exemptions from the *metoikion* as brought about by *isoteleia*: Whitehead (1977, 11–12); Niku (2002, 43, 45); Kamen (2013, 56).

- 126 *I.Erythrai* 8 (= *LW* 40 = *Syll.*³ 168 = *GHI* 155).6–7 (ca. 357–355 B.C.); *I.Priene* 2 (= *GHI* 186 = *Syll.*³ 278).7–12 (ca. 332–328 B.C.?). Also, e.g., *IG* V.2, 11.2–12 (Tegea, 362–361 B.C.) and *SEG* 23, 471 (Epirus, before 330 B.C.). But see *I.Olympia* 11.1–4 (ca. 500–c.475 B.C.).
- 127 E.g., *SEG* 40, 74.21–23 (322–321 B.C.); *IG* II² 786.25–26 (229–228 B.C.).
- 128 Ch. Diehl and G. Cousin, in *BCH* 10 (1886), 312. *I.Magnesia* 10.10–24; see also 6.13–21; 9.15–16; 11.13–14 (third cent. B.C.). *I.Assos* 11a.6–7 (80–70 B.C.). *I.Erythrai* 35.3 (found at Delphi, mid-third cent. B.C.).
- 129 E.g., *F.Delphes* 3.1, 223.2–8 (first cent. B.C.), 3.3, 84.1–2 (263–260 B.C.) and 85.1–3 (ca. 255 B.C.), 3.4, 26–27 (ca. 208 B.C.).
- 130 E.g., *IG* XI.4, 510.7–15 (late fourth cent. B.C.) and 525.8–15 (Delos, early third cent. B.C.).
- 131 E.g., *SEG* 16, 373.1–8 and 375 (Lamia, early third cent. B.C.?); Latschew (1882, 365), no. 22.12–16 (second cent. B.C.).
- 132 E.g., *IG* XII.6, 18 (= *SEG* 1, 350 = *AM* 44 (1919 [1920]), 5–6, no. 5F).13–25 (ca. 321–306 B.C.); cf. Tracy (1990, 64) (ca. 320–ca. 315 B.C.); 19 (= *AM* 72 (1957 [1958]), 171–172, no. 4).14–20 (ca. 322–301 B.C.); 29 (= *AM* 72 (1957 [1958]), 186–188, no. 21 = *SEG* 1, 354).17–23 (after 306 B.C.); 31 (= *SEG* 1, 358 = *AM* 72 (1957 [1958]), 188–189, no. 22).15–16 (306–301 B.C.); 38 (321–300 B.C.) = *AM* 72 (1957 [1958]), 190–191, no. 23.16–21 (306–301 B.C.).
- 133 E.g., *I.Ephesos* 1442.5–6, 1459.2–4 (both from the Hellenistic period).
- 134 See, e.g., *I.Magnesia* 10.10–24 (Hellenistic period); *I.Iasos* 608 (= *Syll.*³ 426).22–25 (Bargylia, ca. 270–261 B.C.); Segre, no. ED 133 (= *I.Iasos* 51).25–29 (Iasus, second cent. B.C.); *ZPE* 20 (1976), [19 no. 1], 20 no. 2 (Halicarnassus, first cent. B.C.?); *I.Didyma* 487 (= IX.1², 417 = *SEG* 19, 410).5–8 (Stratos in Acarnania, late third or early second cent. B.C.); *IG* VII 12.11–13 (Megara, Hellenistic period); *IG* XII Suppl. 245 (Andros, fourth cent. B.C.); *I.Kalchedon* 1 (= *Syll.*³ 645).71–73 (172 B.C.); *SEG* 36, 552.7–9 (Pythion in Thessaly, ca. 180–170 B.C.); *SEG* 39, 440.4–6, 441.3–6 (Orchomenos in Boeotia, ca. 225–200 B.C.); *IOSPE*² I 340.3–5 and 349.2–5 (both from Chersonesus Taurica, third cent. B.C.).
- 135 *SEG* 41, 930.24–27, 931.6–8, 932.1–4 (late third–early second cent. B.C.); *I.Erythrai* 111 (= *I.Priene* 50).21–26 (ca. 160 B.C.?) and 122 (early second cent. B.C.).
- 136 For a useful overview of the debate on whether such rights formed integral parts of grants of *politeia* or could be added separately to these grants, see Chaniotis (1996, 109–111) (with reference to the right of *enktesis*).
- 137 E.g., Gschnitzer (1974, 720–721); Marek (1984, 145, 149, 152–153) with a historiographical analysis.
- 138 The first: e.g., Szanto (1892, 15, 20, 22); Billheimer (1938, 22, 101); Osborne (1972, 152) (n. 96); Hornblower (2012, 1231). The second: e.g., Gschnitzer (1974, 720–721); Marek (1984, 152–155). The third: Mack (2015, 124): “The honorand was the *proxenos* of another city in the context of his own, its citizen when he visited the second *polis*.” This, however, not only fails to explain grants of *politeia* to the people who, like Greek monarchs, clearly did not plan to reside in or even visit the granting city, but also acknowledges the possession of two or more “citizenships.”
- 139 Harrison (1968, 29 n. 1) with reference to Isocr. 14.51; Gschnitzer (1997, 416–417); Giovannini (2007, 309, 311).
- 140 Paoli (1930, 286); Billheimer (1938, 22).
- 141 *I.Erythrai* 6 (= *LW* 39 = *Syll.*³ 126 = *GHI* 106).4–8 and 10–11, respectively (394 B.C.).
- 142 E.g., *IG* II² 287.2–9: among honors to the person whose name did not survive (ca. 336–335 B.C.).
- 143 E.g., *IG* II² 80.9–11 (ca. 378–377 B.C.), 162 (ca. 353–352 B.C.), 287 (ca. 336–335 B.C.), and also, e.g., *SEG* 36, 982.B.6–7 (Iasus, 500–450 B.C.) with Hennig (1994, 307 n. 10) for the date.

- 144 E.g., *IG* II² 287, 288 (= *IG* II³ 493), 289, 290 (= *IG* II³ 492) (ca. mid-fourth cent. B.C.).
- 145 Hansen's theories on the use of ethnics were based on his identification of *politai* as "citizens": 1996 and 2004.
- 146 Cohen (1997, 59–60, 64), respectively, and (2000a, 49–63). For a debate on the relationship between *astoi* and *politai*, see next chapter. Patterson (1990, 44).
- 147 Grace (1973, 12–13).
- 148 *ML* 86 = *IG* I³ 104 (409–408 B.C.), with Stroud (1968, 5–7); Frost (1994, 48), speaking of a "legal distinction between Athenians and non-Athenians."
- 149 Dem. 23.47–48 (ξένος ἢ πολίτης); Arist. *Oecon.* 2.2.15, 1348b.10; Hesych., s.v. ξενίας δίκη.
- 150 E.g., *IG* I² 976.1 = *IG* I³ 1194bis.1: [εἴτ' ἄστό]ς τις ἀνὲρ εἴτε χσένος, with *SEG* 10, 431. This inscription has been dated to the early sixth century by F. Hiller von Gaertringen; ca. 575–550 (?), by D. Lewis; "not later than c.550," by L. H. Jeffery, in *ABSA* 57 (1962), 133, no. 34, followed by Anderson (2003, 24, 224 n. 23); to the mid-sixth century by Flament (2010, 152–153); and to "very early 4th century" by Jordan (1999), 117 = D. R. Jordan, in *GRBS* 41 (2000), 12, no. 24, ll.3–4. Cf. Aeschyl. *Suppl.* 365: since the *genos* of the Danaids originated in Argos but resided abroad, they were *astoxenoi*, or "native foreigners," for the Argives, and 618: as both their kin and aliens (ξενικὸν ἀστικόν θ' ἄμω); Pind. *Pyth.* 3.71; [Dem.] 46.22 (see n. 80 above); *I.Cret.* IV 13.2, 64.4 (*astia dika*), IV 80.8 (*ksenía dika*), with Gehrke (1997, 49 n. 106); Brock (2010, 94–96) on a "binary opposition between *astos* and *xenos*" as much more prominent in Athenian tragedies than that between *polites* and *xenos*, which was "in line with the patterns for archaic literature," 97.
- 151 On this development, see, e.g., Hartmann (2002, 57–58); Seifert (2011, 295), who insisted that the *astoi* were a larger group than the *politai*; for this view, see also Cohen (1997, 59).

4 Solon and the Athenian *politeia*

Modern scholarship credits Solon with laying the foundations of citizenship in Athens. Among others, Brook Manville dated “a formal concept of citizenship for all Athenians” from the time of Solon, pointing out that Solon “established . . . *politeia*, which now certainly meant citizenship”; Frank J. Frost asserted that “the earliest organized classification of the Athenian citizen body for which we have direct testimony is the Solonic census”; Cynthia B. Patterson concluded that “the history of Athenian citizenship begins with Solon” and that “Solon and his laws did create Athenian citizenship,” whereas Cynthia Farrar unreservedly claimed that “Solon extended citizenship status and protection to all residents of Attica.”¹ The problematic nature of such statements is immediately revealed by a confused perception of Solon’s citizens. Were they *politai* (Manville), or members of Solon’s four census classes (Frost), or all residents of Attica without qualification (Farrar)? Such views are also closely connected with the opinion, shared by both ancient and modern authors, that Solon was the founder of Athenian democracy. The relationship between citizenship and democracy in ancient Greece, and particularly in Athens, has received diverse interpretations, compelling us to have another look at the problem. The first part of this chapter will examine whether it is possible to interpret Solon’s reform as the introduction of citizenship in Athens, and to associate Solon’s *politeia* with the foundation of Athenian democracy. Since Greeks thought of *politeia* as a system that defined individual social and legal status (see preceding chapter), examining Solon’s laws inevitably raises the problem of connecting his *politeia* with the emergence of legislation – written legislation, in particular – in ancient Athens and the rest of the Greek world. This will be the focus of the second part of the chapter.

1. Reinterpreting Solon’s *politeia*

Solon’s politeia and citizenship

The development of citizenship in ancient Greece has generally been interpreted as a linear progression that emerged some time before citizen status became formalized (by Solon’s legislation in Athens, according to many) and, after a few more steps including Cleisthenes’s reforms, took its final shape as a result of the

activities of Ephialtes and Pericles by the mid-fifth century.² Applying the modern concept of “citizenship,” which itself is a relatively recent creation, in the context of ancient Greek history has been made possible, to a large degree, by identifying certain ancient Greek words as meaning “citizen” and “citizenship” or their cognates. Those who speak of citizenship in ancient Greece, and Athens in particular, refer to the Greek word *polis* – which is usually translated as a “city” or “city-state”³ – as designating a “community of citizens.” For example, in the opinion of Ugo Paoli, “the *polis* is held in common for the general benefit of the citizens”; Raoul Lonis referred to a *polis* as “a community formed by citizens”; Edmond Lévy believed that “the *polis* can be defined as a community of *politeia* shared by the citizens”; whereas Mogens H. Hansen asserted that a “*polis* in the sense of ‘state’ was principally a community of citizens.”⁴ Others, too, have expressed similar opinions in one way or another,⁵ so that the word *polites*, which is considered a derivation from the word *polis*,⁶ has been interpreted as meaning “citizen.” Jacob A. O. Larsen explicated *polites* as “a citizen of a *polis* or city-state”; Stephen C. Todd has qualified *polites* as “a member of *polis*; hence a (male) citizen as opposed to metic or a slave,”⁷ whereas others have seen *politai* as citizens with the full scope of political and legal rights.⁸ The word *politeia* is thought to have been derived from *polis* and *polites*, and Brook Manville’s authoritative book on citizenship in ancient Athens has asserted that “‘citizen body’ is yet another of the many possible nuances of *politeia*; citizenship and the *polis* were interdependent.”⁹ While these words are acknowledged to have had more than one meaning, the general understanding of the word *politeia* has been “citizenship,” and phrases like “share in the *polis*” or “share in *politeia*” have been interpreted as indications of citizen status.¹⁰ Significantly, recent reference works, including the *Oxford Encyclopedia of Ancient Greece and Rome* (2010) and the fourth edition of *The Oxford Classical Dictionary* (2012; with its volume companion, the second edition of *The Oxford Companion to Classical Civilization*, from 2014), which similarly reprint Davies’s entry from the *OCD*³, do not have a special entry on *politeia*, and they discuss it under “citizenship, Greek.” According to Davies, it consisted of four abilities: “to fight, to vote, to hold office, to own land.” Other such works that have a special entry on *politeia* limit its meaning to “citizenship” and “government.”¹¹

However, this traditional interpretation of the meaning of the words *politeia* and *polites* as pertaining to citizenship in ancient Greece, and ancient Athens in particular, has created numerous problems. Some, including Davies in the entry mentioned just above, noted that the word *politeia* meant much more than simply “citizenship.” More specifically, Erich Ziebarth saw *politeia* as “(i) political activities, (ii) foundations of political organization, (iii) the form of government, (iv) the state power and government, (v) statehood, (vi) a type of constitution, as, for example, the Achaean League or associations of the Jews, and (vii) a territorial entity in general.” Jacqueline Bordes has interpreted *politeia* as “constitution, political organization, political life (of a city), republic, democracy, political power, government, citizenship [droit de cité], political rights, politics (by a citizen).”¹² Designating the status of members of the various social groups in Greek

cities, which were called *politeumata*, reveals the complex meaning of *politeia*.¹³ For example, numerous inscriptions from many places of the Greek world applied the term *politeuma* to bodies comprised of either alien Greeks residing in the city or non-Greek residents, including the Phrygians, Lycians, Idumaeans, and Jews.¹⁴ Members of such communities did not necessarily have the citizenship of the city; and while they held a separate social and legal status in the city, the same word, *politeuma*, was simultaneously applied to the community of *politai* of that city.¹⁵ Thus, the city could have more than one *politeuma*, in the same way one person could have more than one *politeia* and, therefore, be a *polites* in more than one city.¹⁶ Yet, while acknowledging that the word *politeia* had a broader meaning, modern studies still place the emphasis on its political significance. Although noting that *politeia* was “a word with a cluster of meanings,” Todd referred to *politeia* as “‘constitution’ and ‘citizenship’ (in the sense of the status or privilege of being a citizen),” whereas Manville and Ober defined *politeia* as “community of citizens,” “constitution,” “form of government,” and “way of life,” and concluded that “*politeia* was simultaneously a concept, a social and political membership, a set of beliefs, and a set of behaviors.”¹⁷ Modern political theorists, too, have had no qualms about talking of *politeia* as “ancient Greek citizenship,” then immediately delineating a variety of intricacies on Aristotle’s use of that word as his alleged definition of “citizen” and “citizenship” in ancient Greece, as we shall see below.¹⁸

How could a word with such diverse meanings serve to define one of the most important statuses of an individual in a city? Some think that citizen identity in ancient Greece was a phenomenon with multiple meanings, raising an issue of whether that identity could be defined using a single concept.¹⁹ Other questions remain as well. The fact that ancient Greeks themselves had no particular notion of “citizen” and “citizenship” does not, of course, prevent us from applying these terms in retrospect. They can hardly be avoided, and, besides, rationalizing in familiar terms often brings us clearer insights into the realities of the past. At the same time, using a concept requires an understanding of its significance, especially when it is being retrospectively applied in an alien context. In such cases, we should at least preserve the meaning of the terms we use. A major problem is that citizenship lacks a clear and concise definition. Lately, political theorists have even preferred to speak of “citizenships” instead of “citizenship,”²⁰ rationalizing that status as a sum of attributes, a combination of various sorts of rights, privileges, and obligations. Accordingly, (equal) citizenship is juxtaposed with economic inequality, inequality in education, and other types of inequality. However, many of the same economic and/or legal rights which such studies associate with citizenship belong to social groups that do not include all citizens, or do not include only citizens.²¹ What, then, makes the difference? The attribute that appears to always belong exclusively to all citizens is political rights. Hence, “citizenship” is primarily understood as the possession of political rights, both by political theorists and lawyers, and by historians of antiquity.²² Reference works speak of citizenship as a relationship (i) “between an individual and a state, defined by the law of that state, with corresponding duties and rights in that state.

Generally, political rights, such as suffrage and the right to hold public office, are predicated upon citizenship” and (ii) “between an individual and a state involving the individual’s full political membership in the state and his permanent allegiance to it.” They present “the status of citizen [as] official recognition of the individual’s integration into the political system” and define as citizens “those of the nationals, who enjoy their legal and political rights.”²³ The difference between citizens and non-citizens in the modern world – or the minimalist understanding of citizenship – lies almost exclusively in the possession of political rights,²⁴ because all people are expected to be legally equal, regardless of their political status. European constitutions proudly declare universal legal equality, even if some of them only mention “citizens.”²⁵ While this situation partially explains the view about the limited importance of citizenship today, the dividing line between citizenship and non-citizenship remains quite visible.²⁶

The concept of “citizenship” emerged relatively recently; it was only a few centuries ago when, as newly developing centers of economic and financial power, European cities also strove to ascertain their social and political independence (Riedel 1972, 678–681). Only a fraction of the population possessed political rights, or citizenship, in the medieval and early modern periods. Therefore, the creation of “national citizenship” has been seen as the “transformation from the estate societies” of the eighteenth century and as part of the “nation-building of nineteenth-century Europe” by extending citizenship to the lower classes. This process continued into the twentieth century, and, as Paul Magnette has recently observed, “it has been only a half-century, and sometimes less, since all adult nationals were made citizens in liberal democracies.”²⁷ This development has resulted in societal unification and simplification: instead of being divided into numerous social classes with diverse rights and privileges, modern societies consist of citizens and non-citizens, with legal gradations being reduced to a bare minimum, such as, for instance, the status of permanent legal aliens in the United States. These people are not counted as citizens even though they enjoy essentially the same social and legal rights; therefore, the division into citizens and non-citizens – in other words, those who have political rights and those who do not – constitutes the basic, and essentially the only, social division at present. Recent attempts to delineate other types of citizenship in addition to “political citizenship” and to replace the national basis of citizenship with some other foundation(s), based on democratic principles, serve only to better reveal the political nature of citizenship.²⁸ To sum up briefly, if we try to establish the difference between citizens and non-citizens today, a major difference appears to concern the so-called political function.²⁹ This situation is probably most visible in the United States, where a very broad idea of a “nation” is typically reduced to a “political community,” and “citizen” defines the one who has membership in this community.³⁰

Some have already observed that applying the modern conceptualizations of “citizens” and “citizenship” to the ancient Greek world is problematic.³¹ Furthermore, the usual approach of modern scholarship, which divides all free people in ancient Greece into “citizens” and “non-citizens,” simplifies and distorts our

vision. As noted in the preceding chapter, the population of ancient Greek cities, including Athens, was not as legally homogenous as today's population: it consisted of groups of people who held different legal and social status, and who possessed varying numbers of rights – legal (such as the right to use the same laws and have access to the same magistrates), social (such as the right to contract lawful marriage that produced legitimate children), and economic (such as the right to possess immovable property in the territory of the city, to sell goods on the market without constraints, and to pay the same amount of taxes). Solon's reforms conferred these rights equally to members of the Athenian kinship community, thus forming all the *astoi*, or the people with a claimed common ancestry and blood bond, into one socially and legally homogenous entity, which later Greek authors retrospectively defined as *politeia*. According to those authors, Solon turned all Athenian kinsmen into *politai* but gave them different political rights, proportionate to the amount of their personal agricultural income (see previous chapter). *Politai* in Solon's Athens, therefore, were not a politically homogenous body, which challenges the idea that Solon established citizenship in Athens. What he did do was change the main criterion for having political rights by (generally, but not completely) substituting the requirement of noble origins with the requirement of having a certain amount of income from land. In everything else, the *astoi* remained as politically divided as before. Solon was also credited with initiating the practice of giving *politeia* to aliens, thereby offering the legal status of the *astoi* to those who did not belong to the kinship community.

The latter meant that although all the *astoi* were *politai* by virtue of their birth in Solon's Athens, not all *politai* were *astoi*. Solon's reforms revealed the distinction between kinship, legal, and political status: for example, as a member of the kinship community, an *aste* was a *politis* "by nature" but she had no political rights, whereas Pasio, who had neither membership in the kinship organization nor political rights (in the sense that he could not occupy political offices), was a *polites* "by decree." Using only such conceptualizations as "citizens" and "non-citizens" fails to reflect this complexity. Having *politeia* was not the same as having political rights, and, if we apply the concept *politeia* to his reforms in retrospect, as later Greek authors did, when Solon organized all *astoi* as *politai* into four census classes he also gave these classes different political rights. This fact not only undermines modern attempts to qualify all *politai* as citizens; it also questions attempts to present Solon's four classes as a form of organizing Athenian citizenry.³² Such attempts are derived from erroneously identifying kinship status with political status, and *politai* and *astoi* with citizens. Another problem, which does not seem to have received any noticeable attention, is that the ancient Athenians, and Greeks in general, understood political rights differently from how we understand them today. The following pages will examine these problems in turn.

The distinction between *politeia* and political rights in Athens and other ancient Greek cities revealed itself in several ways. One of them is that the word *politeia* and its cognates were also used to define the status of women and children. The majority opinion has been that women and children had no political rights in

Greek cities.³³ Therefore, neither ancient Greek women nor children were citizens by modern standards. Nor did women (and children) have legal initiative: they could neither serve as judges and jurors nor represent themselves in court.³⁴ Still, Greek authors including Sophocles, Euripides, Demosthenes, and orators in the Demosthenic corpus spoke of women as *politides*.³⁵ Inscriptional texts also make similar references. One of them, a funerary inscription for a certain girl Cleopatra, from Panticapaeum (a distant, but still Greek, city), refers to her as a *politis* of the city of Amisos in the first century B.C.³⁶ Other inscriptions point to grants of *politeia* that women could receive either for themselves and their descendants (like the women who received *politeia* from the Molossians or from the city of Dyme in Achaia) or as members of the family of the main recipient(s) of *politeia*, i.e., similar to children. The latter situation is illustrated by the grant of *politeia* to Asclepiades, a physician from Perge, together with his wife and children, by Seleucea (by the Calycadnus?), and the treaty of sympolity between Miletus and Pidasa, which entitled children and women of the Pidaseans to receive *politeia* in Miletus, provided those women were *politides* in Pidasa or some other Greek city. Inscriptions from Panamara mentioned the expression "*politeuma* of women," also pointing to women as *politides*, and once again illustrating the multiple uses of the word *politeuma*.³⁷ Other inscriptions refer to grants of *politeia* to children, both male and female.³⁸

Evidence about the *politeia* of women (and children) in ancient Greece, which does not square well with the modern view of *politeia* as citizenship, has been reassessed in more than one fashion. Some, like Claude Mossé, Cynthia B. Patterson, and Josiah Ober, rejected such information, declaring that "no woman could be a *polites*." Others claimed that the use of the word *politeia* and its cognates with respect to women had certain limitations. David Whitehead saw it as "the essentially metaphorical coinage of poets and philosophers"; Charles W. Hedrick, Jr., limited its application to "satiric contexts and utopian philosophical speculations"; and, according to Claude Vatin, only poets took the liberty of referring to women as *politides*.³⁹ Still others have come to think that women and children were citizens of a sort,⁴⁰ by referring to the *politeia* of women as "restricted citizenship,"⁴¹ or alleging that "proof of citizenship was not the same for men and for women,"⁴² or speaking of them as "women/females of citizen status" (in preference to "citizen women/females"),⁴³ or as "females of citizen birth."⁴⁴ Some such interpretations have tried to set up a fine line between "qualification for citizenship" (women included) and "citizen rights" (women excluded), with the conclusion that "female citizens did not participate in governing the democracy."⁴⁵ If what was required was the "citizen status" of both parents, women could qualify as citizens as well or, using Eva Cantarella's description, "they had the status, but not the functions, of citizens." In order to avoid considering women as citizens, Stephen D. Lambert has resorted to the old idea of "legal-passive and social-active citizenship," and asserted that membership in a deme was a "criterion of citizenship." Emil Szanto (a long time ago) and Mogens H. Hansen and Peter J. Rhodes (much more recently) spoke of ancient Greek women (and children) as "citizens in a wider sense."⁴⁶ Others have argued that "qualifications" for "citizens" varied

in ancient Greece, depending on time and place, implying a constantly shifting definition of “ancient Greek citizenship.”⁴⁷

The reason for all these theoretical constructions has been the a priori identification of *politeia* with citizenship, hence the need to explain the *politeia* of women in ancient Greece. In a similar fashion, children – and those elder males who could not occupy magistracies due to their old age – were *politai* for Aristotle, even though they had limited political capacity:

[C]hildren who are as yet too young to have been enrolled (in the deme rolls) and all men who have been discharged should still be held to be *politai*, even though not quite absolutely (*oukh haplos*) but with the added qualification of “under age” in the case of the former group and “freed from obligations” or some other similar term – it will make no difference, as the meaning is clear – in the case of the latter. For we seek to define a *polites* in the absolute sense (*ton haplos politen*), and one possessing no disqualification of this nature that requires a correcting term, since similar difficulties may also be raised, and solved, about those who have been turned into *atimoi* and exiled (*ton atimon kai phygadon*). A *polites* in the absolute sense (*polites d'haplos*) is defined by nothing else so much as by the right to act as judges and officials (*kriseos kai arches*). But some offices are definitely limited in regard of time, so that some of them are not allowed to be held twice by the same person at all, or only after certain fixed intervals of time; others have no limit of tenure, such as those of a juryman or an assembly member (*dikastes kai ekklesiastes*).

This passage has figured prominently in all modern discussions on “ancient Greek citizenship,” which unanimously interpret Aristotle’s words as his attempt to identify a “perfect citizen.” However, such interpretations put limits on a much broader approach by Aristotle: he defined what he called “a perfect *polites*” (*ho haplos polites*) as someone who had political rights (*kriseos kai arches*), that is, the right to act as a judge (i.e., not just a jury member) and as an official (i.e., not simply an assembly member). Aristotle distinguished his “perfect *polites*” from two other kinds of *politai*: those who were called *politai* simply by virtue of having a common place of residence (i.e., all the population of the *polis*, including slaves and metics), and those who had limited political rights. The latter *politai* included minors (who were not yet enrolled in demes), the elderly (who already lost the right to occupy city offices due to their old age, according to Aristotle), but not women, whom the Greeks counted as *politides* and who had no political rights whatsoever. This approach has created a considerable problem for those who interpret *politeia* as citizenship and, accordingly, doubt or reject the validity of Aristotle’s definition.⁴⁸

Aristotle is not to blame for modern misconceptions. It would be an oversimplification to reduce his observation about a “perfect *polites*” to “two categories of citizens, the one who governs (*archon*) and the one who is being governed (*archomenos*).”⁴⁹ Aristotle’s words reveal another problem created by identifying *politeia* with citizenship: not all *politai* had, or were expected to have, political rights.

A near contemporary of Aristotle, the orator Lycurgus, reflected on this situation from a different perspective when he declared (1.79) that Athenian *politeia* was based on three foundations: an official (*archon*), a judge (*dikastes*), and a private person (*idiotes*). The latter group included the people who belonged to *politeia* but exercised no, or had no, political rights. Aristotle's "perfect *polites*" was, certainly, a *polites* "by nature," that is, an *astos* whose birth entitled him to *politeia* and to political rights and, accordingly, to deme membership in the time after Cleisthenes's reforms, i.e., when Aristotle was writing. Before Cleisthenes's reforms gave equal political status to all male *astoi* of the required age (see chapter 6), their political rights had differed, depending on the amount of landed income. The thetes – and, probably, the *zeugitae* – could attend popular assemblies and serve on juries but had no right to occupy political offices, because they had either no or a very limited amount of landed property.⁵⁰ Since Solon's thetes, and *zeugitae*, had no political rights, they therefore did not belong to the "citizen population," although they also counted as *politai*.⁵¹ Even after Cleisthenes's reforms, this was the status of Athenian *politai* "by decree," who had no access to political offices in Athens. Agoratus, who – falsely, in the opinion of Lysias – claimed to have obtained the Athenian *politeia* for his assassination of Phrynichus, used his status as a *demopoietos polites* to sit on courts and participate in the popular assembly (Lys. 13.73: "although he was not an Athenian").⁵² Serving as a judge as well as occupying political and religious offices was, however, beyond his reach as a *polites* "by decree." The same was true for the Plataeans, who received the *politeia* of Athens but lacked political and religious rights: they were expressly prohibited from occupying city archonships and priesthoods in the *gene*.⁵³ The distinction between *politeia* as a social and legal status and as having political rights goes against the traditional interpretation of Aristotle's words as establishing degrees of citizenship.⁵⁴ At best, he was referring to degrees of *politeia*.

The need for Aristotle, and modern authors, to apply a *sensu stricto* definition to the word *polites* and its cognates arose because those words had a broader social significance that was not limited to political rights. The *politai* without political rights included women, children, old men (who had been freed from obligations to the state due to their age, if we believe Aristotle), and the so-called *atimoi*, or the people who were deprived of political rights while retaining (some of) their legal and social rights as *politai*. This is what the above-quoted words of Aristotle (*Pol.* 3.1.4, 1275a.14–27) imply: some of those who were disqualified from (certain) political rights, i.e., those "who have been turned into *atimoi* and exiled," still remained *politai*. There are, thus, no grounds to follow Edmond Lévy (1980, 236) and others who defined children and women in ancient Greece as "incomplete citizens." Political rights – or citizenship, if we use the modern concept – were something extra that *politai* either did or did not have. Juxtaposing "(complete) citizens" to "citizens with restricted rights" misses the mark (e.g., Duplouy 2011, 97) because the latter group was comprised of people who lacked political rights not only on the basis of age (like *gnesioi* male minors, who were entitled to political participation once they came of age after Cleisthenes's reforms) or due to temporary legal restrictions (like the *atimoi*: see below) but

also on the basis of gender (like women, who never had political rights, even though they were counted as *politides*).

Interpreting *politeia* as citizenship also has bearings on the understanding of *atimia* and the status of *atimoi*, which has been a challenging task for at least two reasons. One of them is that the meaning of this word evidently evolved over time, from designating outlawry to defining a restricted status (which is usually translated as disfranchisement), even though some have questioned this development, probably because the original meaning of *atimia* also survived into later times (see appendix 1). The other reason why the understanding of *atimia* has been a problem is the disagreement among ancient, and consequently modern, authors on which restrictions it actually imposed. Ancient evidence includes the reference by Andocides to such consequences of *atimia* as the loss of some personal rights (*ta somata atimia*) but retaining the right to possess property. According to Andocides, Athenian *atimoi* also suffered the loss of the right to speak in the assembly and sit on the city council and the loss of various specific rights, such as bringing an indictment, lodging information, sailing up to the Hellespont, crossing to Ionia, or entering the Agora. Demosthenes presented an *atimos* as someone who had no right to make speeches and propose measures, or to enter temples. Aeschines referred to the law that prohibited any Athenian who had prostituted himself to occupy archonships and priesthoods, act as an advocate for the state, hold any elected office (*arche*) whatsoever, serve as a herald, bring in proposals, be present at public sacrifices, or enter the Agora.⁵⁵

The latter prohibition brings to mind the definition of *atimia* by Andocides and reflects the social, religious, and political importance of the Agora, in addition to its economic function as the marketplace. This nuance was lost on later Greek authors, who mixed the limit on political activity with the lack of the right to trade in the market, which belonged only to the *politai*,⁵⁶ and therefore considered *atimoi* to be people who were not merely deprived of some of the rights that belonged to *politai* but were excluded from *politeia* altogether. In another display of this later attitude, Plutarch (*Phoc.* 34.3) not only confirmed Andocides's words that the *atimoi* lost the right to speak in the assembly, but also added that the *atimoi* were not even allowed to attend the assembly. Although many have accepted this view as correct,⁵⁷ Plutarch certainly went too far in his desire to show the unfair treatment of Phocion. He asserted that Cleitus allowed foreigners, *atimoi*, women, and even slaves an access to tribunal and theater, and probably mixed two different rights which Solon's reforms had carefully distinguished: while all male *politai* of legal age could sit in the assembly and on the courts, his thetes – and probably the *zeugitae*, though the question is still being debated – were not allowed to serve as officials or, it seems, as judges. The Greeks differentiated the activities that we indiscriminately define as political rights: Aristotle's "perfect *politai*" (*Pol.* 3.1.4, 1275a.14–27: see above) could serve as officials and judges, whereas those who had no such ability were *politai* with disqualifications.

The inability of an *atimos* to speak in the assembly, bring an indictment, and lodge information was quite compatible with his right to participate in the popular assembly and in the courts. This situation is nicely illustrated by Diodorus

Siculus (18.18.1–3), who retells the story that, after the Athenians were defeated by Antipater in the Lamian War (323–322), they were unsure of what to do. They gathered at an assembly and called on the orator Demades by name. But Demades did not respond by giving counsel (*symbolos oukh hypekousen*) because, having been convicted as the author of several illegal proposals and, therefore, punished by *atimia* (*gegonos atimos*), he was not allowed by law to make proposals (*symbolouleuin*). Only when his status was restored, continues Diodorus, was the orator Demades able to give the Athenians his advice, which proved to be most useful to them. While this story might have been an invention, it reflected what was actual practice. Speeches by Demosthenes and from the Demosthenic corpus also refer to *atimoi* as people who had no right to propose a decree or to testify in court. Those mentioned included a male prostitute, who was deprived of these rights because of his mode of behavior (Dem. 22.21–24); someone who inherited this status because his father had been punished by *atimia* for defaulting on debts to the state (Dem. 22.34); Timocrates, who was accused of profiting from moving decrees and introducing laws, just as he was about to “inherit” *atimia* from his father (Dem. 24.201); and someone who lost these rights for avoidance of military duty ([Dem.] 59.27–28). The transgenerational nature of *atimia* meant, for example, that unless a father paid his debt to the state, his son would have also lost his right to prosecute or to move a proposal in the assembly.⁵⁸ It follows naturally, then, that a decree proposed by an *atimos* was illegal.⁵⁹ However, there was no law that we know of that prohibited an *atimos* from attending and voting at the popular assembly. It is erroneous, therefore, to extend the modern view to ancient Athens that participating in an assembly is a political right.⁶⁰

Since Solon’s *nomothesia* was the first to clearly distinguish between one’s legal and political status in Athens, it comes as no surprise that Greek tradition held Solon as the author of restrictions on the status of male prostitutes.⁶¹ Such evidence merely shows, once again, that the equal social and legal status, or *politeia*, that Solon established for all *astoi* in Athens did not necessarily imply that all *politai* were also politically equal. *Atimia* helps us to have a better view of the distinction between one’s political and legal rights and, consequently, of the nature of *politeia*. In this respect, the position of *atimoi* was similar to that of women and underage children (and elderly male *astoi*, if we believe Aristotle): they all enjoyed the social and economic advantages of *politeia*, but had neither political rights nor legal initiative.⁶² What might look like a similar, although not the same, situation today is when some citizens – including military personnel, convicted criminals, people who are legally acknowledged as mentally unstable, and certain other groups – have limited political rights without any damage to their legal and social status.

Another challenge facing the identification of *politeia* with citizenship is the need to explain why the Greeks had two words for a “citizen” – *astos* and *polites*. Although the meanings of those words are generally acknowledged to have been identical,⁶³ they also reveal certain differences that have been explained in more than one way. Some, like Cynthia B. Patterson, interpreted the coexistence of these words as “different points of view.” Others, including Ugo Paoli, asserted that “in

rare cases the official language used *politēs* instead of *astē*” and suggested that the two words pertained to different requirements or to different shades (or types, or levels) of the same status.⁶⁴ Still others have offered a diachronic approach. For example, John K. Davies presented *astos* as “the more common word [for a “citizen”] until the 5th century” and spoke of *polites* as “the eventually predominant term” in the subsequent period. More recently, Josine H. Blok expressed a similar view. However, the two words could simultaneously be applied to the same person: Thucydides described Aristogeiton as a “man of the *astoi*, a *polites* of moderate standing” (*aner ton aston, mesos politēs*), while speeches from the Demosthenic corpus referred to the mother of Euxitheus (whose case will be examined in more detail below) as being an *astē* and a *politēs* (*astēn t’ autēn kai politin einai*), and decried Neaera as being neither an *astē* nor a *politēs*.⁶⁵ Another interpretation has focused on different aspects of the status of *politai* and *astoi*, while presenting them as forming one group of people with similar civil and political rights.⁶⁶ This approach distinguishes between the two concepts as pertaining to two separate spheres of activity, and as reflecting shades of an individual status in the city. Among others, Otto Braunstein spoke of *astē* and *politēs* as connoting degrees of “citizenship.” In his opinion, “*astē* in the correct sense is used specifically for the citizen-woman, whose ancestors have been residing in the city for many generations and bequeathed the citizenship, whereas *politēs* concerns in the first place one’s legal status, by designating, when contrast was evident, the citizenship obtained specifically by grant.” Claude Vatin took a similar stance when he insisted that, unlike an *astos*, a *polites* (as a “new citizen”) always remained a *xenos*, but still had the same legal and political rights as other citizens in the city that gave him *politeia*. This ignored all those who had *politeia* by virtue of their origin as *astoi*. Placing a special emphasis on the position of women, Eva Cantarella has recently asserted that “Athenian women were considered citizens and indicated as such by the words *astē* and *politēs* (feminine forms of *astos* and *polites*), two words indicating two different levels of participation in civic life,” which still limited the meaning of *polites* to that of “citizen.”⁶⁷

Edward E. Cohen has been the only person, to my knowledge, who explicitly rejected the idea of these words having the same meaning. His explanation, however, was that while *polites* meant a “citizen,” *astos* designated a “territorially determined” local resident, which created a dichotomy between *astoi* and *xenoi*.⁶⁸ Others have expressed the view that the words *astos* and *polites* and their cognates pertained to different social groups. However, this stance has not been uniform – the *astoi* have been distinguished either on the basis of their residency, i.e., similar to Cohen, or by their lineage.⁶⁹ Opinions have disagreed on other specific issues as well. Either an *astos* or a *polites* is thought to have had a more pronounced political significance. For example, Lévy, Meier, Vêrilhac and Vial, Bonnard, Oulhen, Lintott, Blok, and Brock have associated the word *astos* with belonging and descent in a general sense, while consigning the use of *polites* to the realm of politics.⁷⁰ Conversely, others like Robin Osborne have ascribed a similarly broad understanding to the word *polites* while connecting the status of *astos* with political activity.⁷¹ Still others, like Alain Fouchard (1984, 201), argued that no

evidential basis exists – in the works of Plato and other texts – to support the view assigning *astoi* and *politai* to the realms of civic and political rights, respectively, and that neither definition had any special reference to the execution of political rights. This intuitive search for the nuances of the two words, which puts them together but precludes their complete identification with each other, has failed to uncover their meanings. Still another challenge is the fact that, according to the majority opinion, the Athenian idea of autochthony – which has been closely linked with the status of *astoi* – did not develop until the fifth century, whereas *astoi* emerged in much earlier times.⁷²

There is a better explanation for the interrelationship of the concepts of *astos* and *polites*. These concepts did, indeed, pertain to different aspects of individual status, but neither of them had anything to do with citizenship and political rights per se. As members of the kinship community, the *astoi* were the only people in the city who by virtue of their birth could contract an engyetic marriage and produce legitimate (*gnesioi*) children with the right to inherit the property of their households (*oikoi*). As a result of Solon's reforms, all *astoi* acquired the same social and legal status – which later Greeks and modern authors retrospectively defined as *politeia* – by virtue of their birth. Thus, they became *politai* “by nature.” However, Solon retained the political inequality among the *astoi* by connecting the extent of political rights to the amount of agricultural income. After the reforms of Cleisthenes, all male *astoi* of legal age eventually enjoyed equal political rights if no legal restrictions were imposed, such as the educational or property census, or *atimia* (see chapter 6). After the fall of the Thirty, Lysias urged the People to give *politeia* to all “Athenians,” i.e., all those who could claim it “by nature,” whereas Isocrates referred to a situation in which *politai* “by nature” were deprived of their *politeia* by law.⁷³ Together with the above-examined definition of the perfect *polites* by Aristotle (*Pol.* 3.1.3–4, 1275a.6–8 and 14–27), such evidence confirms that it was possible to be a *polites* without having political rights. According to the *Athenian Politeia* 42.1, after males who were born of two *astoi* (*hoi ex amphoteron aston*) reached their eighteenth year of age, they were to be registered in Athenian demes (*engraphontai eis tous demotas*), provided, of course, they passed a scrutiny (*dokimasia*) verifying their birth. Other *astoi*, such as women and underage children, had no political rights and did not belong to *demotai*, even though they, too, were *politai* “by nature.” The same person, therefore, could qualify as an *astos* and a *polites*, because these two words concerned different aspects of his or her status. However, neither *astos* nor *polites* meant “citizen” because neither word defined political rights, such as the right to serve as a political official or as a judge. The former word concerned membership in the kinship community, whereas the word *polites* designated one's legal and social status in the city: either “by nature,” or by virtue of birth, for *astoi*; or “by decree,” i.e., through a grant, for those who did not belong to the kinship community.

The members of the latter group, or Athenian *politai* “by decree,” neither did nor could join the kinship community of the *astoi*.⁷⁴ This situation has created a considerable problem for those who directly identified “ancient Greek citizenship” with membership in the kinship community or, to use another expression,

the “descent group.”⁷⁵ The adherents of this approach accordingly divide the entire city population into two social classes: the members of the kinship community, who had political rights, and non-citizens. This makes it necessary to acknowledge that anyone who received “citizenship,” i.e., the *politeia* of the city – and, thus, became a *demopoiotos* – also became a member of that city’s kinship community. However, neither the recipient of *politeia* nor his family necessarily became members of the kinship community. The status of Archippe, the wife and, later, widow of Pasio, offers a good illustration of this situation. Shortly before his death, Pasio became a *demopoiotos* in Athens. His son Apollodorus was made a *polites* of Athens (Dem. 45.78, [Dem.] 53.18), evidently as a member of Pasio’s family. After Pasio’s death, and in accordance with his will, his widow Archippe received a hefty dowry, including real property, and married Phormio, also an ex-slave, who had been Pasio’s closest associate. Having identified a *demopoiotos* with a “citizen,” or *astos*, David Whitehead faced the problem of how to interpret the marriage of Archippe to Phormio, who clearly did not have the Athenian *politeia* at that time. On the one hand, asked Whitehead, “was it not an illegal marriage between a *xenos* and an *aste*, Phormion a metic, Archippe the widow and mother of citizens?” On the other hand, if Archippe was a *xene*, how could Pasio leave immovable property as her dowry? Neither Whitehead’s observations nor an elaborate discussion of this episode by Christopher Carey, who believed that Archippe remained an alien (*xene*) after Pasio obtained the *politeia* of Athens, seems to have offered a convincing solution to these problems. The fact that Archippe was left in charge of immovable property suggests that she had *politeia*, which included the right of *enktesis*, or the right to possess immovable property in the territory of the city (see preceding chapter). Archippe undoubtedly received the *politeia* of Athens as a member of Pasio’s family, together with Apollodorus and her other son by Pasio.⁷⁶

Other evidence about *politeia* also undermines the usual interpretation of it as citizenship. Many texts indicate that *politeiai* could be accumulated, since grants of *politeiai* made the same person a *polites* in more than one place. In addition, grants of *politeia* were not only extended by cities but by other types of social bodies in ancient Greece, such as Leagues or even sanctuaries.⁷⁷ The evidence includes excerpts from Aristotle’s works on the *politeiai* of the Cretans, Arcadians, Chalcidians, Aetolians, Acarnanians, and Thessalians⁷⁸ and fragments by Heraclides Ponticus.⁷⁹ Inscriptional texts also provide information on exchanges of “equal *politeia*,” or isopolity, such as, for example, between Ceos and the Aetolian League,⁸⁰ and about treaties of “joint *politeia*,” or sympolity, including those established by the Aetolian and Lycian Leagues.⁸¹ Since *politeia* has been identified as citizenship, and since the possession of more than one citizenship in ancient Greece has been denied,⁸² such evidence has either been rejected⁸³ or explained as referring to “potential,” “honorary,” or “passive” citizenship that had to be “activated,”⁸⁴ or even to “federal citizenship,” when *politeiai* were offered by entities at a level higher than that of a city.⁸⁵

These ideas, too, have received diverse and conflicting interpretations. The former view implies the existence of degrees of citizenship, and of classes of citizens

in ancient Greece, such as “incomplete citizens” (Chapot and Bordes, who also spoke of “passive citizens”), “second-class citizens” or “half-citizens” (Savalli-Lestrade), holders of a “semi-citizen status” (Davies, who also referred to them as *cives sine sufragio*), “citizens with reduced rights” (Sakellariou, Gawantka, Lévy), or those who only obtained “secondary citizenship” (Larsen).⁸⁶ There has been a debate about what rights such citizens had before their citizenship was “activated.”⁸⁷ The nature of that “activation” has also been interpreted in various ways, generally as the recipient’s (with members of his family) moving to reside in the granting city, or as his (and their) enrollment in one of its tribes, or via the use of the so-called *metekhein*-formula in the decree that carried the grant of *politeia*.⁸⁸ The meaning of “federal citizenship,” too, has been contested, largely because of a disagreement about the way(s) in which “federal” and “local citizenship” related to each other. Thus, Georg Busolt considered sympolity as a “federal citizenship” (“Bundesbürgerrecht,” *koinopoliteia*), along which there existed citizenships of individual cities and each was after itself,” whereas Jacob Larsen applied the word sympolity to an “organization embracing a number of cities,” noting that “there may also be cases in which the existence of both local and federal citizenship is proved more indirectly simply by functioning of the two sets of authorities.” More recently, Adalberto Giovannini distinguished between *politeia* as relevant to individual cities, and sympolity as applicable to several cities at once. According to him, “*sympoliteia* and *politeia* are identical to a degree, as *politeia* can be applied to any political community, whereas *sympoliteia* only to those political communities, in which a number of *poleis* participate.”⁸⁹

Others have focused on the relationship between *politeia* in the city and in the League to which that city belonged. Some have asserted that *politeia* in a member-city gave “federal citizenship.”⁹⁰ In particular, Fraser and Bean thought that “there was no federal citizenship, and in its absence citizenship of the *koinon* depended on citizenship of a city which was a member,” whereas according to Sippel, “citizenship in the League had depended upon citizenship in a city which was a member. The League exercised the right to grant citizenship or *proxenia* in any particular city or even in all the cities of the League at the same time. However, the League did not have the right to grant *politeia* or *proxenia* in the federation itself.” Others, like Larsen, believed that “federal citizenship” gave *politeia* in all member-cities of the League. In his opinion, “when the federal government granted citizenship to an outsider, the new citizen undoubtedly had the right to assume local citizenship in one of the cities of the confederacy. There actually were cases in which citizenship was granted in all cities of the confederacy.”⁹¹ Regardless of the differences, both parties acknowledge that “citizenship” existed on two levels, that of the League (at least, in theory) and that of the city. For instance, Angelos Chaniotis suggested that each city in the League of the Oreians had both “federal citizenship” and its own citizenship, referring to the former as “federal sympolity”; Chiara Lasagni pointed to one common *politeia* being superimposed on local *politeiai* of member-states, which she interpreted as “federal citizenship” and “local citizenships,” respectively; while Athanase D. Rizakis and Emily Mackil argued for “double citizenship, at the level of the *polis* and of the *koinon*.”⁹²

Significantly, neither party has ever produced any convincing evidence to demonstrate how these two citizenships coexisted. To a large extent, the debate on the relationship between “federal citizenship” and “local citizenship” has been due to local geographical – and, it seems, chronological – variations in awards of *politeiai*. For example, grants of *politeia* by the Acarnanian League specifically entitled recipients to *politeia* in only one city of their choice, whereas recipients of *politeia* from the Thessalian League expressly obtained this status in all member cities, even as late as the imperial period. The exchange of isopolity between Naupactus and Ceos points to a similar situation in the Aetolian League: whereas Naupactus gave *politeia* and other rights to the Ceans, the latter gave *politeia* and other rights to all the Aetolians, so that by exchanging *politeia* with Naupactus, the Ceans presumably exchanged it with every city member of the Aetolian League. Recipients of *politeia* of the *koinon* of Delos were also expected to enjoy it in all of the participating islands.⁹³ This diversity undermines the modern vision of *politeia* as uniformly designating citizenship in ancient Greece.

Another theory distinguishes between sym- and isopolity as establishing different degrees of proximity between cities, or between Leagues and member-cities. The adherents of this view have juxtaposed sympolity as “full membership in the confederacy” with isopolity as a “looser tie.”⁹⁴ In such discussions, *sympoliteia* has been presented as “joint citizenship” by Larsen, who saw it as “the merging of two cities into one with a single citizenship”; by Gauthier, for whom “the fusion of two communities into one” was the “most simple” form of a sympolity, and by many others.⁹⁵ Chaniotis has suggested that a sympolity established between two cities was distinct from a sympolity between a city and a league, while Rizakis has asserted that the acquisition of “federal citizenship” only gave not political rights but “civil rights,”⁹⁶ whereas others have interpreted isopolity as a “potential right”⁹⁷ or an “honorary citizenship” in the form of an “abstract grant.”⁹⁸ Since both individual grants of *politeia* and grants of isopolity were alleged to have had more than one degree, they all required “activation.”⁹⁹ Needless to say, none of our sources distinguishes “incomplete citizenship” from “full citizenship,” or “federal citizenship” from “local citizenship” by any specific concept or definition. How could the Greeks, who were so attentive to administrative matters, tolerate such an uncertainty in this important field? This approach does not seem to work for individual cities either. As Peter J. Rhodes (2012c, 749) has dryly observed, “modern scholars distinguish between *isopoliteia*, by which states which were to remain independent exchanged rights, and *sympoliteia*, by which two or more states combined to form a single state, but the language of ancient texts is more varied.”

Summing up briefly, there is no reason to interpret *politeia* as citizenship either with reference to Solon’s reforms or on the basis of the use of the word *politeia* and its cognates in grants or exchanges of *politeia* by cities and other entities. Solon did not give the Athenians the same political rights; in other words, he did not turn them into a homogenous political body, because his reforms allotted different political rights to Athenian *astoi* proportionally to the amount of their individual agricultural income. The only argument offered by those who point to Solon as the founder of Athenian citizenship are later retrospective references

that Solon organized the Athenians into a *politeia*. However, the word *politeia* had a broadly social significance, which cannot be limited to a political status or a political entity. *Politeia* also belonged to women, children, and other people who had no political rights, including the *atimoi*. *Politeia* could be granted and exchanged by sanctuaries and ethnic entities, which did not necessarily constitute political bodies. Although the word *politeia* could later be used in a narrow sense, as a designation for specific political regimes (see below and the next chapter), this word also retained its original broad meaning.

Solon's politeia and democracy

The corresponding evidence likewise fails to support the opinion of some ancient and modern authors that Solon's *politeia* was the foundation of Athenian democracy. Among the former, a later commentator on Demosthenes (Schol. Dem. 22.30) boldly asserted that Solon established Athenian *demokratia*, whereas Diogenes Laertius even claimed that Solon used this word in his letters to Pisistratus and Croesus (1.66–67). Unlike those later writers, Greek authors from the classical period were more circumspect, pointing to the regime established by Solon as being close to but not identical with *demokratia*. Isocrates (7.16) believed that the Athenians “should be willing to restore that earlier democracy which was instituted by Solon, who proved himself to be the biggest friend of the people (*demotikotatos*), and which was established by Cleisthenes, who drove out the tyrants and brought the people back into power,” and then unfolded this idea (15.231–232) as meaning that Solon's legislation established the arrangement that was still being enjoyed in Isocrates's time, whereas Cleisthenes laid down *demokratia*, which had been the source of the biggest blessings to the Greeks. According to Demosthenes (22.31), Solon offered the law prohibiting people guilty of prostitution to make speeches and proposals in the assembly because he knew that the state that was most antagonistic to men of infamous habits was the one that was most likely to publish their shame, and such a state was a *demokratia*. Demosthenes was not saying that Solon was the founder of Athenian democracy, but that the measures instituted by Solon could be most fully realized in a *demokratia*. Aeschines (3.257) referred to Solon's laws as “embellishing *demokratia*,” while Aristotle (*Ath. Pol.* 41.2) inferred that the Athenian *demokratia* took its origins from the reforms of Solon, saying that Cleisthenes's *politeia* was “more democratic” (*demotikotera*) than that of Solon.¹⁰⁰ Elsewhere, Aristotle noted (*Ath. Pol.* 20.1) that what Cleisthenes did was to give, or restore, *politeia* to the “multitude” before eventually establishing *demokratia*, thus implying that Solon's *politeia* was not the same as Cleisthenes's *demokratia*. This stance corresponds with Aristotle's observations (*Pol.* 2.9.3, 1274a.7–8) that, after Solon, politicians courted the favors of the people and changed *politeia* into a democracy. The modern perception of Solon as the founder of Athenian democracy thus appears to have been influenced by much later views,¹⁰¹ which reflected the knowledge that Solon furthered the equality of the Athenians, thus bringing them closer to democracy, and that his laws were still in use under the *demokratia*.¹⁰²

This later perception crosses a fine line between an individual's legal and political rights, ignoring that Solon's reform focused on members of the Athenian kinship community (*astoi*). Solon gave them equal social and legal status, or *politeia*, while allotting them different degrees of political capability. Equality was typical in more than just a democracy, but one needs to distinguish between political equality on the one hand and other types of equality, such as legal and social, on the other hand. Thus, Isocrates (3.15) noted that

oligarchies and democracies seek equality for those who partake in these *politeiai*; and both regimes approve the view that one man should not have more power than any other – which is the best thing for the worthless. In contrast, monarchies give the most to the best, the second to the next best, and the third and the fourth to others following the same reasoning.

Isocrates applied the word *politeia* as a definition for both a social and legal status and political rights. Aristotle used the same approach in his definition of a “perfect *polites*” as the person who had not only *politeia* but also political rights, such as the ability to occupy political offices and serve as a judge (*Pol.* 3.1.3–4, 1275a.6–8 and 14–27; see above). After *politeia* began to designate specific political regimes in the fifth century,¹⁰³ the loss of *politeia* meant the loss of political rights and a partial loss of social and legal rights in the city. Modern studies have left this important change without notice, although it is essential to a proper vision of the social and political development of Athens, because Greek authors used the noun *politeia* not only for a social and legal system but also for political regimes and, accordingly, for an individual's political status. Thus, Aristotle distinguished between *demokratia* and *oligarchia*, noting that “necessarily either all the parts of the *demos* that have been mentioned must have a share in the *politeia*, or some and not others.”¹⁰⁴ Elsewhere, he described this situation by saying that “in oligarchies civil strife is raised by the multitude (*hoi polloi*), on the ground that they are treated unjustly because they are not admitted to an equal share, although they are equal, as has been said before, but in democracies it begins with the notables (*hoi gnorimoi*), because they have an equal share although they are not equal.” Isocrates referred to the same situation from a different perspective when he noted that those who had political rights behaved like “tyrants” with respect to those who, although entitled to *politeia* “by nature” (*physei*), were deprived of it “by law” (*nomo*) and, thus, lived like “aliens” in their own native city.¹⁰⁵

What made those people equal? Their origins. What made them different? Those laws that were characteristic of specific types of *politeia*. The major difference was the principle of selection: in the Athenian democracy, all those who were legally born – i.e., the *gnesioi*, who were equally entitled to *politeia* “by nature” – also received *politeia* by law. Therefore, when the word *demokratia* designated a specific form of *politeia*, the latter word could be substituted by the word “people” (*demos*).¹⁰⁶ Various forms of *oligarchia* reserved political rights for only some of the *gnesioi* by introducing various legal restrictions on access to *politeia* for the rest. Isocrates (3.15) summed up this situation when he said that

oligarchia and *demokratia* set equality for those who partake in these *politeiai*. Likewise, Aristotle (*Pol.* 4.6.4, 1294a.11–15) observed that

virtue is the defining factor of aristocracy, as wealth is of oligarchy, and freedom of democracy, while the principle that a decision of the majority is supreme is found in them all: for in both oligarchy and aristocracy and democracies whatever the larger part of those who have a share in the *politeia* decides is supreme,

while Demosthenes (20.108) noted that “in an oligarchy harmony is attained by the equality of those who are in charge of the public affairs,” i.e., those people with political rights. Aristocracy and oligarchy also had political equality, although it was only extended to some of the members of the kinship community. Therefore, whereas *demokratia* ensured equal political status to every *astos* who was entitled to *politeia* by origin, other regimes established various types of census which limited the number of *astoi* who had equal political rights, i.e., first and foremost, the right to serve as political officials and judges, as seen in the above-mentioned definition of the “perfect *polites*” by Aristotle.¹⁰⁷ According to Xenophon, Socrates believed that “where the officials are chosen among those who fulfill the requirements of the laws, that *politeia* is to be considered an aristocracy; where according to the amounts of their property (*timemata*), a plutocracy; where all are eligible, a democracy.”¹⁰⁸ As part of his discussion of the “oligarchic *politeia*,” Plato (*Rep.* 8, 551b) referred to those who “pass a law defining the limits of an oligarchic *politeia* as a sum of money – a larger sum of money where it is more of an oligarchy, where it is less a smaller – and proclaiming that no man shall hold office whose property does not come up to the required value (*timema*).” This happened because, as he observed (*Rep.* 8, 550c), oligarchy was “the type of *politeia* which is based on property qualification, in which the wealthy govern, whereas a poor person has no share in the rule.” At a later date, Aristotle and Heraclides provided similar evidence for both aristocratic *politeiai*¹⁰⁹ and oligarchic *politeiai*, whose membership was restricted by census: *apo timematon* or *ek timematon*.¹¹⁰ Aristotle (*Rhet.* 1.8, 1365b–1366a) reflected on this situation with a general observation that

there are four kinds of *politeia* – democracy, oligarchy, aristocracy, monarchy, so that the supreme or deciding authority is always a part or the whole of these. Democracy is a *politeia* in which the offices (*tas arkhas*) are distributed by the people among themselves by lot; in an oligarchy, by those who possess a certain property qualification (*apo timematon*); in an aristocracy, by those who possess an educational qualification, meaning an education that is laid down by the law. In fact, in an aristocracy, those who have remained faithful to what the law prescribes hold offices (*archousin*), and who must of necessity appear best, whence this *politeia* has taken its name. In a monarchy, as its name indicates, one man alone is supreme over all; if it is subject to a certain arrangement (*kata taxin tina*), it is called a kingdom; if it is unlimited, a tyranny.

A property census allowed only a limited group of people to share *politeia* in Cumae, Boeotia, and Cyrene.¹¹¹ Such evidence shows that the word *politeia* could be applied to different political regimes, not only a democracy. Consequently, any change in *politeia* (i.e., any *nomothesia*) meant either opening or limiting access to *politeia* and, by extension, to political rights in this *politeia*, whether it was to all or only some of the *astoi*.¹¹² As Aristotle put it, “often somebody who would be a *polites* in a democracy is not a *polites* under an oligarchy,” so that “the *polites* corresponding to each form of *politeia* will also necessarily be different” and “the definition of a *polites* that we have given applies especially to *politeia* in a democracy; under other forms of government it may hold good, but will not necessarily do so.”¹¹³ Such statements might create the impression that Aristotle was speaking about political rights in modern terms, with reference to the entire population. However, these words appear to refer to the same situation as other statements by Aristotle and Isocrates:¹¹⁴ they only concerned the *astoi*, all of whom had the right to *politeia* “by nature” and – provided there were no restrictions imposed in the form of a property or educational census – to political rights, with the exception of women, minors, the elderly (if we believe Aristotle), and *atimoi*.

Once democracy, or political equality, was established in Athens, *politeia* became associated with democracy; this association was then projected retrospectively into the past. On the one hand, since Solon founded the Athenian *politeia*, he could also be presented as the founder of the Athenian democracy (see below). On the other hand, because this concept originally served to broadly designate the legal and social organization, *politeia* could be applied to different political regimes, including democracy, oligarchy, or even monarchy. Any *politeia* thus consisted of two levels: the legal and social status, which established one’s standing as a *polites*, and the political status, i.e., the right to serve as a political official and judge, or “citizenship,” if we apply the modern concept. Whether an *astos* who had the right to *politeia* “by nature” could actually enjoy it by law depended on the regime in the city. The usual quick translation of *politeia* as “citizenship” conceals the fact that an individual’s legal status and political status were not the same in ancient Greece, and, accordingly, each had its own historical development.¹¹⁵

2. The legal community and (written) laws

The emergence of the legal community in Athens, i.e., the community of *politai* (using the later concept in retrospect, like the Greeks themselves), was closely connected with the creation of Athenian written laws. Draco’s laws were the earliest documented Athenian legislation, dated to the late seventh century, of which only the homicide laws were left intact, or almost intact, by Solon’s subsequent legal reform in the early sixth century. Draco’s homicide legislation is generally thought to have survived together with the laws of Solon on *axones*, or rotating wooden tablets, and subsequently became engraved on a stele in 409–408.¹¹⁶

Whether Solon’s legislation incorporated the laws of Draco or whether Solon simply put them together with his own, as two sets of laws, has been debated.¹¹⁷

Three observations have been offered in favor of the latter opinion. One of them is that ancient sources directly refer to the co-existence of the two sets of laws.¹¹⁸ The second observation is that some, though not all, ancient texts distinguish Draco's "ordinances" (*thesmoi*) from Solon's "laws" (*nomoi*). For example, Aristotle (*Ath. Pol.* 7.1) states that, after Solon introduced his *nomoi*, the Athenians ceased to observe the *thesmoi* of Draco, except those relating to homicide; and, according to Andocides (1.81–83), the Athenians were to use the *thesmoi* of Draco and the *nomoi* of Solon after the downfall of the Thirty (403) until such time as the specially established lawgivers came up with a new set of laws for the city. The third observation is that the laws of Draco continued to be used later in the fifth century – after the restoration of democracy in 410, when the laws of Draco were republished in 409–408 (fig. 8),¹¹⁹ and after the downfall of the Thirty in 403, who, according to a later commentator, had "broken down the ancestral *politeia* of the Athenians and the laws of Draco and Solon"¹²⁰ – and into the fourth century, when someone was mentioned as consulting the laws of Draco written on a stele.¹²¹ The relationship between these two sets of laws is important for the current examination because, while offering a certain legal protection and substituting blood feuds with legal regulations,¹²² Draco's laws preserved a considerable degree of the legal inequality that existed among the kinsmen, which Solon largely eliminated.

This brings us to the question of why written laws emerged in ancient Greece. All suggested explanations can be summed up in the form of three clusters, although these divisions are relative because some of the explanations can be categorized in more than one way.¹²³ Theories in the first group explain the origin of written laws in political terms and connect the emergence of written laws with putting checks on arbitrary judgments,¹²⁴ either in conflicts between aristocracy and commoners or in inner-aristocratic disputes.¹²⁵ The former opinion relies on the view of several ancient authorities who saw written laws as the basis of legal equality. Rationalizing along these lines, Euripides presented Theseus as saying that

when the laws are written, both the powerless and the rich have equal access to justice, [and it is possible for the weaker man to address the same words to the fortunate man whenever he is badly spoken of,] and the little man, if he has right on his side, defeats the big man.¹²⁶

This theory has been reinforced by Gagarin, who saw written legislation as strengthening the "whole community's sense of itself as a single political entity."¹²⁷ Others have connected the origin of written laws with the institutionalization of the privileged status of one social group, the aristocracy. Thus, argued Walter Eder, "the codification of law in archaic times primarily served the purpose of securing aristocratic predominance."¹²⁸ However, the former view does not explain why written laws not only failed to eliminate political inequality but even helped to institutionalize it, as seen in Solon's four census classes, whereas the latter opinion does not clarify what exactly brought about the need for this rearrangement at the turn of the sixth century.



Figure 8 The stele containing Draco's republished laws: IG I³ 104 (EM 6602), 409–408 B.C., from the collection of the Epigraphic and Numismatic Museum, Athens.

Theories in the second group explicate the origin of written laws by the development of legal institutions in ancient Greece, including a gradual evolution from self-help to a formal procedure of judicial legislation (Hans J. Wolff, Eberhardt Ruschenbusch), the need to filter out and to give a formal status to juridical norms (Julie Vélissaropoulos-Karakostas), and the desire to preserve details of the increasingly complex legislation (Michael Gagarin).¹²⁹ These views, however, do not explain why oral laws and contracts, including those for marriage and adoption, survived for many centuries after written legislation came into being, as well as the fact that we do not see a specific reference to oral laws in Athens until the mid-fifth century.¹³⁰ The latter does not mean that this was the time when unwritten laws emerged; rather, it means that such laws started to be specifically designated because written laws had finally begun to play a meaningful role. Before that time, oral laws evidently required no specific designation because they were seen as common and natural.

The third cluster embraces the theories of relatively recent origins, which offer a “state-building” explanation. According to these theories, written laws emerged as the *polis* was establishing state control and a centralized authority over social divisions that had been independent until then. In the opinion of Michael Gagarin, the small villages that eventually formed the city of Athens might have used the same types of punishment for specific crimes, like murder, but these villages used different types of procedures, which had to be unified. Karl-Joachim Hölkeskamp connected the “consolidation” of the *polis* with the “systematization” of (legal) norms and traditions. According to him, “the different aspects of this new demand for fixed statutes, for *thesmoi* of all kinds . . . resulted from the rapid integration and increasing structural density of the early *polis*,” so that the “multifarious variety of these *thesmoi* reflected this process of integration.” And Zinon Papakonstantinou stressed the role of written laws in establishing social order among different social segments, asserting that “extant written laws of the archaic period largely imply a much wider and more complex network of social relations and ideologies as the impetus behind the emergence of written laws.”¹³¹ However, this approach, which echoes the old theory that the *polis* legislation undermined the power of individual *gene*,¹³² still fails to explain the survival of oral laws and the growing involvement of more and more Greeks in legal activities. Nor does it square well with the view that rejects the development of the *polis* of Athens and other Greek *poleis* from formerly independent entities but asserts that it was the other way around: phratries, and other divisions, only emerged after the creation of the Athenian *polis* (see introduction).

As mentioned above, these explanations often overlap. For example, Hölkeskamp and Gagarin combined all three approaches, while Hawke, among others, explained the origin of written laws by political reasons and the state-building process. He pointed to the anxiety of leading families of previously autonomous settlements who would not wish to see their power diminished; rather, they would try to retain as much of that power as possible by sharing in the political power developing in the newly formed polis, which was made up of these same settlements. As some have noted, however, political changes and written laws did not

necessarily go hand-in-hand. Thus, Sealey argued that, at least in some cases, Solon may have actually changed very little, simply confirming practices that were already in use. And, clearly unhappy with existing explanations for the emergence of written laws in ancient Greece, and Athens in particular, Sickinger correctly observed that “writing was introduced into societies with preexisting institutions and customs, which continued to function even after the advent of written laws. Writing is an inherently neutral skill; it does not by itself revolutionize society.”¹³³ These references, which reveal dissatisfaction with the traditional rationalization of the emergence of written laws in political terms,¹³⁴ reflect an attempt to provide technical explanations for the use of such laws in ancient Greece. For example, Thomas proposed that, initially, writing was used primarily to record those rules that were not universally agreed upon, so that fixed practices were instituted in cases of conflict and inconsistency. Similarly attempting to avoid simple political explanations, Gagarin advanced what he termed the two main motives for the origin of written laws – the “emergence of more powerful collective bodies” and the “increase in the size and diversity of population” – which necessitated making laws more organized and more accessible to the public. His stressing that written laws did not necessarily uphold democracy was refined by arguing that written laws served to promote the interests of not just one social group in the city but of the entire city population.¹³⁵

There is some truth behind each of these statements. However, they do not answer the question of why ancient Greeks continued to use oral laws for centuries after the emergence of written legislation. The modernizing approach to late archaic Greek cities as political communities of citizens makes it impossible to answer this question, because the available evidence suggests that written laws were not supposed to replace oral laws, and that the two types of laws coexisted. It can be proposed, then, that oral laws and written laws were designed for different purposes, had different fields of application, and, probably, targeted different social groups in the city. Adriaan Lanni’s observation that the Athenians “generally considered oral and written agreements interchangeable” (2006, 157) is too broad because the situation depended on the social status of the people involved. For example, oral agreements survived in non-maritime suits,¹³⁶ and many securities that used landed property were made in oral form despite their high value. Only a small fraction of the surviving stones refer to written contracts recording such transactions,¹³⁷ while maritime suits were always dealing with written agreements, either because of the status of the people involved or because the collateral for maritime loans was the cargo that still needed to be delivered.¹³⁸ Another interesting question – which does not seem to have ever been asked specifically – is why the oral laws alone were enough for so long. Other problems remain as well. It is true that Draco’s laws brought a certain amount of parity to the people of Athens, and Gagarin is correct to once again raise the old explanation connecting the introduction of written laws with equality. It is also true, however, that inequalities remained after the emergence of written laws, and that Solon’s legislation dealt with this problem. In addition, written law does not necessarily mean public law, so although Draco is credited as the author of the

first written laws of Athens,¹³⁹ the Greeks thought that Solon made Athenian legislation public by putting it on *axones*.¹⁴⁰ This is closely connected with the topic of the relationship between Solon's *axones* (often translated as "rotating tables": fig. 9) and *kyrbeis*, which has been long and unconvincingly debated.¹⁴¹ Among other issues, this debate has focused on the evidence that the earliest Athenian

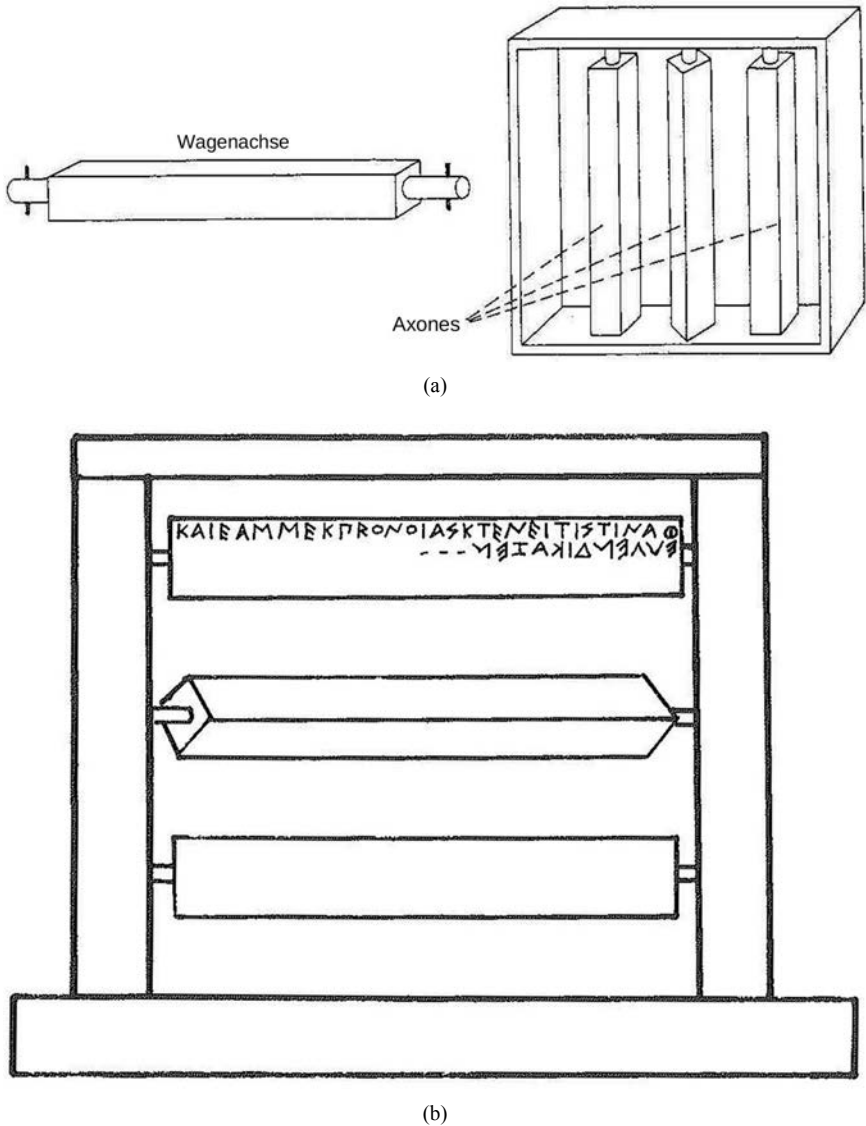


Figure 9 Reconstructions of Solon's *axones*

by (a) E. Ruschenbusch 1966 and (b) R. Stroud 1979.

legislation, i.e., that of Draco and Solon, was transferred – by Ephialtes, according to Anaximenes of Lampsacus – from the Acropolis to the Agora, which made it easier to be consulted by all. According to Aristotle, some of Solon's laws, particularly those written on the *kyrbeis*, were kept in the Royal Stoa, i.e., together with the laws of Draco.¹⁴² Hence, the view that even if they had different forms, and were made from different materials and placed in different locations,¹⁴³ the *axones* and the *kyrbeis* probably carried the same or largely the same text.¹⁴⁴ It is quite possible that Solon's laws on the *kyrbeis*, together with Draco's laws, were put in the Royal Stoa some time after Solon's reforms.¹⁴⁵ If Ephialtes was indeed the person behind that move, we do not know his reasons but we do know that this happened much later than the legislation of Draco and Solon, i.e., when the social and political situation in Athens had been significantly transformed.

What, then, had to happen in Athens to bring about written laws? Sickinger's pessimistic response was that "how one assesses the impact of Solon's legislation will depend on what one thinks of its content and earlier conditions in Athens and Attica, and since those conditions are unknown, definitive answers are unattainable."¹⁴⁶ This barrier can be overcome by paying attention to the type of social group, or groups, targeted by Draco's and Solon's legislation. The laws of Draco did not bring equality to the entire population of Attica, because these laws concerned only the *astoi*, or members of the kinship community. This explains the lack of a variety of statuses in Draco's laws.¹⁴⁷ The focus on the interests of the kinship community is also characteristic of Solon's legislation and the Gortyn Law on Crete. Judging by the evidence examined above, the kinship community originally operated on the basis of oral traditions and customs.¹⁴⁸ This suggests two reasons for the introduction of written laws, which appear to have been interconnected.

The first such reason was the need to homogenize the kinship community by cutting across its division into *oikoi* and clans. This is what Draco did by establishing officials such as *ephetes*, whose decisions were valid for all *astoi*, and by introducing laws that gave the right to punish or pardon the murderers of the *astoi* not only to the victims' relatives in the degree up to children of first cousins, but also to their fellow *phrateres*. Equality was not on Draco's mind, and certainly not political equality. He was concerned with the well-being of the *astoi* and of the kinship community as a whole.¹⁴⁹ Solon continued this development when he gave legal equality to all *astoi* and made possible marriages and adoptions from outside individual households and *gene*. However, while such measures cut across the borders of individual *oikoi* and extended families, they still only concerned members of the kinship community.¹⁵⁰ Hence, as many have observed, "in private matters (*dikai*) Athenians were encouraged to settle out of court . . . this was especially the case of disputes involving kin and family."¹⁵¹ This was not just a matter of social decorum. Even in much later times, *dikai*, private and oral suits which had existed before Solon,¹⁵² could only be filed by a member of the same *oikos* on behalf of his *oiketes*, either a relative or a slave, whereas *graphai*, public and written suits, could be filed by "anyone who so wished," i.e., any member of the kinship community. The introduction of *graphai* reflected Solon's overall policy of socially and legally homogenizing the kinship community.¹⁵³ As a result

of Solon's reforms, once all *astoi* formed one and the same social and legal entity, or *politeia* (if, like the Greeks, we apply that concept in retrospect), public suits protected the legal community of the *politai* as a whole, including both *astoi* as *politai* "by nature" and the non-*astoi* as *politai* "by decree."¹⁵⁴

The other reason for the introduction of written legislation was to secure the privileged status of the kinship community as a whole against the growing number of outsiders who made up a significant presence in the city and began to play an increasingly important role in its life. Some have already hinted at this development, but interpreted it from a different perspective. For example, Michael Gagarin believed that the "early legislation" strengthened "the whole community's sense of itself," pointing to the growing "diversity" of the population in that period and thinking of the community in the sense of a "single political entity," as a reflection of the opposition between aristocracy and the rest of archaic Greek society.¹⁵⁵ While this approach mixes the kinship community with the political community, the main point remains the same: early written laws were established with the aim of preserving the exclusive status of one social group in the city, rather than to expand equality to the entire population of the city.¹⁵⁶

The fact that oral and written forms of legal activities pertained to different aspects of life of the kinship community explains why oral complaints and laws (or customs) survived for centuries after the emergence of written legislation;¹⁵⁷ why *dikai* long remained oral complaints (unlike *graphai*);¹⁵⁸ why homicides were always settled by private oral suits;¹⁵⁹ and why "there is no evidence that marriage agreements were ever put in writing before the Hellenistic period."¹⁶⁰ Marriages were of special concern to the Athenian kinship community: only *astoi* had the right to engyetic marriages by the virtue of their origins. As the Athenian population was becoming more diverse, and more and more immigrants established their domiciles in Attica, changes started to take place in that field: a new type of marriage emerged in the form of *epigamia*, which was reserved for non-kinsmen; *politai* "by decree" had the right to possess immovable property in the city and, accordingly, to arrange engyetic marriages with Athenian *astai* so that their children had the status of *gnesioi* and joined the kinship community; and, finally, marriages between *astoi* and *xenoi* were prohibited, and punishments were established for cases when a *xenos/e* was passed as an *astos/e*, and when non-*gnesioi* children were passed as *gnesioi*.¹⁶¹ Responding to this rising diversity of population and complexity of social life, written laws offered a defense for the kinship community.

Gagarin was eager to explain the sudden emergence of written marriage contracts in the Hellenistic period by the increasing number of marriages taking place between people from different cities. The earliest such agreement, which he adduced in support of his view, was contracted between Demetrias from Cos and Heraclides from Temnus in the late fourth century.¹⁶² Gagarin's explanation seems compelling, but there appears to be more behind the emergence of written marriage contracts. We certainly should not forget that more than one type of marriage existed in ancient Greek cities even before the Hellenistic period, and while engyetic marriage required no written agreement,¹⁶³ the situation did not

necessarily have to be the same in the case of *epigamia* and other types of marriages. Evidence also exists for engyetic marriage still being conducted in oral form in Hellenistic times, as follows, for example, from Menander's reference to the marriage of Glycera and Polemon in chapter 1. At least in some cases, therefore, whether the agreement was oral or written did not depend on the time period but on the type of the marriage. There is, in fact, much similarity between the agreements of Glycera and Polemon on the one hand, and Demetrias and Heraclides on the other – Demetrias is also “given” by her father; she is referred to as a “lawfully-born” (*gnesia*), thus implying that she was born in an engyetic marriage; and the amount of the dowry is established. Other provisions of the marriage agreement between Demetrias and Heraclides can probably also find parallels with what we know about engyetic marriage in pre-Hellenistic times. For example, the obligation of Heraclides not to bring other women in the house certainly echoes references to Alcibiades offending his wife by bringing women in the house, which served as valid enough grounds for her to file for a divorce before the Archon.¹⁶⁴ Even if the oral marriage agreement did not include such provisions, they are apt to have constituted a part of the customs of the kinship community. The marriage agreement between Demetrias and Heraclides probably put in writing what had existed in oral form. Why did this have to be done? The answer is that Demetrias and Heraclides did not belong to the same kinship community: their relatives had to put in writing what was essentially oral conventions of engyetic marriages within an individual kinship community. Another interesting feature of this marriage is that the daughter was “given” not just by her father but by her mother as well, which probably reflected a change in the status of women during Hellenistic times.

The survival of oral contracts had little, if anything, to do with the rate of literacy, and not even very much to do with the value of the transaction: it was primarily concerned with the social status of the parties involved. Mortgages of land and engyetic marriages were oral agreements because the rights to have immovable property and, accordingly, to arrange marriages with a surety (*engye*) belonged only to the *astoi* by virtue of their birth. The possession of land and the right to work on it indicated the person's privileged status in the city. As noted above, written marriage contracts only emerged after the classical period, and marriages based on written contracts coexisted with marriages arranged by oral agreements, like those we see in the plays of Menander, whose audience was quite well aware of what they saw. Whether a marriage was arranged in written or oral form depended not only on circumstances, like when a marriage was arranged between residents of different cities, but also on the type of marriage. Engyetic marriages remained oral arrangements, just as they had before the appearance of written legislation. The same was true for adoptions, which were oral agreements when they concerned the *astoi*.

Athenian written laws, therefore, emerged in close connection with the development of the kinship community for two major reasons. One of them was the consolidation of the kinship community, cutting across its local divisions, each of which had its own oral laws, or customs. We only hear of them sporadically, as, for

example, in the case of a phratry's law from Paros, which protected the phratry's right to its cemetery, published by Angelos P. Matthaiou (2003, 307–310). The process of consolidating such entities in Athens was started by Draco and furthered by Solon's regulations, including those on legitimate births, heiresses, guardians, and adoptions. As a result, the kinship community had common laws and common magistrates, which made it easier to preserve its privileged position in the city. The other reason was that laws were not written down as an innovation but in the form of the sanction that was already in use, thus accentuating the special position of the kinship community and its members. This activity was hardly political, because laws were applied to this community as a whole, while kinsmen had, and would continue to have for a long time, different political rights. The growing complexity of legislation and the eventual appearance of written laws reflected the conflict between the interests of the kinship community and those who did not belong to it. The use of the same laws and the same officials was what distinguished the members of the kinship community from the rest of the city dwellers, as did the ongoing possession of distinct religious cults and burial grounds.

Conclusion

Interpreting the *politeia* established by Solon in Athens requires a historical approach that distinguishes between a social and legal status on the one hand and a political status on the other. Originally, *politeia* only defined the former: Solon established *politeia* (using a later concept, which the Greeks applied to Solon's regime in retrospect) when he gave social and legal equality to all *astoi* by virtue of their origins as members of the kinship community. But he did not make them politically equal, since their political rights depended on their income qualifications. The broad social meaning of *politeia* also meant that someone could be a *polites* without having political rights, or, using the modern word, without being a citizen.¹⁶⁵ Two of the four income classes established by Solon, the *thetes* and the *zeugitae*, had no political rights for a long time after Solon, even though members of these classes also belonged to *politai* "by nature," and they also sat on juries and participated in popular assemblies. It was only later, after democracy was established, that legal and political equality were joined together, and this association was retrospectively projected into the past. The word *politeia* then started to designate specific political regimes. However, it also retained its broader social meaning, which could not be limited to political rights. Aristotle's definition of a "perfect *polites*" as someone who had both *politeia* and political rights offers a good insight into that situation. Even after the establishment of democracy, some *astoi* – women, children, old men (who were disqualified from holding political offices by their advanced age, according to Aristotle), and the *atimoi* (who were deprived of political rights because of having broken the law) – had no political rights, although they were *politai* "by nature" as members of the kinship community.

The later perception of *politeia* as not only a legal status but also a political regime has created a number of problems. One of them is that although any restoration of *politeia* in Athens meant the restoration of the "*politeia* of Solon," i.e.,

the equal social and legal status of all members of the kinship community, Athenian *politeiai* also differed with regard to whether political rights were held by all or only some of the *astoi*. Identifying *politeia* with citizenship (or, in other words, presenting the status of a *polites* as the possession of political rights) has also engendered the theory of citizenship for women and children in ancient Greece. However, women and children could be *politai* without having political rights, just like elders and *atimoi* could.¹⁶⁶ Another tangible problem concerns grants of *politeia*. If they constituted grants of citizenship, then *politai* “by decree” were “citizens.” Solon’s grants of *politeia* to immigrating artisans has, therefore, been interpreted as a “law on immigration,” which confuses our vision of such grants in Solon’s and later times.¹⁶⁷

Dissociating legal and political status also helps us to reconsider the emergence of written laws in Athens, and throughout ancient Greece. Such laws helped to further organize the kinship community by cutting across the borders of its constituent parts, establishing officials and regulations on homicide and on *anchisteia* (Draco) as well as on legitimacy, heiresses, dowries, testaments, and adoptions (Solon). These laws also protected the kinship community and its exclusive position in the city by acknowledging and defining the status of those who did not belong to that community. Written laws, therefore, served to institutionalize the social and legal inequalities between the kinship community and other social groups in the city. Solon socially and legally homogenized members of the kinship community, turning all of them into *politai* “by nature,” i.e., by virtue of their origins as *gnesioi*, who occupied a privileged status in the city, although all of the *astoi* were not yet politically equal. The status of a *polites* could now be given as a privilege to outsiders, i.e., to non-*astoi*. Although it was possible to be a *polites* without having political rights, and although *politeia* alone did not bring along political rights, grants and withdrawals of *politeia*, and ways of defining *politeia*, played an important role in the political life of Athens and the rest of the Greek world, as we shall see in the following part of this book.

Notes

- 1 Manville (1980, 217): “Solon first created a legal citizenship,” and (1990, 69, 154–156, 185–186); Manville and Ober (2003, 20, 80); Frost (1984, 283, 1994, 50); Patterson (2005, 270, 273); Farrar (2007, 186–187). See also Forrest (1966, 189); Ober (1996, 38); Tsigarida (2006, 66); Patterson (2009, 53); Lape (2010, 246); Ismard (2010, 82); Schmitz (2014b, 48); Ober (2015, 149–150).
- 2 Cf. Forsdyke (2005, 94), who traced the beginning of the “process of the juridical definition of Athenian citizenship” to Draco. For the view that Cleisthenes’s reforms established citizenship in Athens, see page 243, n. 11 and page 244, n. 20. For a similar view about Pericles’s policy, see Jacoby (1954a, 474) (“the concept of citizenship was established for the first time”), 475; Rhodes (1992, 77 n. 51): “Patterson (1981) argues that before 451/450 there was no law laying down the qualification for registration as a citizen, which I think possible”; Lambert (1998, 47): “there may not have been any thoroughgoing citizenship legislation before Pericles’ law”; Blok (2004, 25), and page 210, n. 96. Cf. Wijma (2014, 9): “no clear definition of what this Athenian citizenship entailed survives from Classical Athens.”
- 3 E.g., Vatin (1970, 115–116); Davies (2012a, 320).
- 4 Paoli (1930, 201, 202–203, 254); Lonis (1983, 103); Lévy (1993, 81); Hansen (1996, 169).

- 5 E.g., Giovannini (1986, 14); Morris (1991, 26); Daverio Rocchi (1993, 53); Rhodes (1994, 566); Mossé (1995, 15); Vêrilhac and Vial (1998, 43); Biscardi (1999, 221–222).
- 6 Paoli (1930, 202–203, 254); Bordes (1982, 17–18); Walter (1993, 21–22); Daverio Rocchi (1993, 53); Mossé (1995, 15).
- 7 Larsen (1968, 8); Todd (1990, 235).
- 8 Szanto (1892, 2); Lipsius (1905–15, 412); Braunstein (1911, 12); Paoli (1930, 197, 215); Billheimer (1938, 9); Gauthier (1972, 376); Sealey (1983, 98); Vatin (1984, 55, 182); Sakellariou (1989, 92–93, 289); Hedrick (1994, 296); Davies (2012a, 333).
- 9 E.g., Bordes (1982, 17–18); Bleicken (1994, 23–24); Manville (1990, 5–6).
- 10 E.g., Szanto (1892, 9–11); Billheimer (1938, 9); Paoli (1930, 197, 227); Jacoby (1954a, 474); Osborne (1972, 151); Sealey (1983, 98); Whitehead (1984, 58); Marek (1984, 122); Sinclair (1988, 77); Todd (1990, 235) (see n. 7 above); Manville (1990, 185–187); Daverio Rocchi (1993, 54, 56); Leduc (1994, 61, 64); Mossé (1995, 16); Brulé (1995, 134–135); Ostwald (1996, 54); Manville and Ober (2003, 9, 10–11); Brun (2010, 109, 121). These phrases: e.g., Cohen (2005, 39–40).
- 11 Patterson (2010, 146–147); Davies (2012a, 334); Davies (2014, 173–174). Cf., e.g., Rhodes (2001, 26–27).
- 12 E. Ziebarth, in *RE* 42 (1952), 1401–1402; Bordes (1982, 13).
- 13 For the synonymy of the words *politeia* and *politeuma*, see Arist. *Pol.* 3.4.1, 1278b.11 and 3.5.1, 1279a.26, with Biscardi (1999, 233–234), who interpreted *politeia* as the status, and *politeuma* as the multitude, of “citizens.”
- 14 Alien Greeks: e.g., *Syll.*³ 283 (Chios, 333–332 B.C.); *OGI* 192 (Cos, first cent. B.C.), 592; the Caunians (Sidon, the late Hellenistic period?); *SEG* 2, 871: the *politeuma* of the Boeotians (Egypt, ca. 165 B.C.), with Lüderitz (1994, 193–196). The Phrygians: e.g., *OGI* 658 (the Hellenistic period); the Lycians: e.g., *SEG* 2, 848 (Egypt, A.D. 120); the Idumaeans: e.g., *OGI* 737 (Memphis, second cent. B.C.), with Lüderitz (1994, 196–202). The *politeuma* of the Jews in Berenice: *IGR* I 1024 (the early imperial period); Ruppel (1927, 294–312); Kasher (1985, 30) (with nn. 5–6, 49–50; Lüderitz (1994, 204–221).
- 15 Cf. Smallwood (1976, 225): “A *politeuma* was a recognized, formally constituted corporation of aliens enjoying the right of domicile in a foreign city and forming a separate, semi-autonomous civic body, a city within the city; it had its own constitution and administered its internal affairs as an ethnic unit through officials distinct from and independent of those of the host city”; and Lüderitz (1994, 185): “If one confines oneself to the cases where ‘*politeuma*’ is used as a technical term . . . the term can either represent a political body which is part of the administrative organization of a Greek *polis* or it can stand for other organized groups of people.” Cf. Arist. *Pol.* 3.4.1, 1278b.11 and 3.5.1, 1279a.26 (see n. 13 above).
- 16 Cf. Tarn (1948, 1): 135: on the population of Alexandria as having been comprised of “a Greek corporation and probably other national corporations – Thracians, Persians, etc. – each possessing certain quasi-autonomous rights.” For someone having more than one *politeia*, see, e.g., Dem. 23.212; *Milet* I 3, 149.10–12 (page 118, n. 4).
- 17 Todd (1990, 235); see also Ruppel (1927, 269); Manville (1990, 37, 185–186); Davies (2012a, 334). Manville and Ober (2003, 10–11); see Sinclair (1988, 79); Sakellariou (1989, 288); Lévy (1993, 67, 77); Ruzé (1997, 315, 345); Lonis (2000, 229).
- 18 Arist. *Pol.* 3.1.4, 1275a.14–27 (see n. 48 below). This interpretation: Mansfield (1994, 1–12); Pocock (1995, 29); Bates (2003, 27–59); Collins (2006, 2–5, 41–46); Wijma (2014, 14–15).
- 19 E.g., Lape (2010, 3): “like other social identities, citizen identity was composed of multiple coordinates or narratives that were activated at different times and in different contexts.”
- 20 E.g., Roche (1992, 2–3) (on “social citizenship”); Blackburn (1993, 9) with reference to the “whole range of citizenship, including questions of political liberty, civil rights and freedoms, and social and economic rights”; Gunsteren (1994, 36–48); Bader (1995, 212): “political citizenship is complemented by economic, industrial,

- and social citizenship”; Dwyer (2004, 3–17), following T. H. Marshall’s definition of social citizenship as centering on the “universal right of citizens to an extensive set of state-guaranteed social and economic provisions.”
- 21 E.g., Harrison (1991, 210–212); Gunsteren (1994, 38); Janoski (1998, 8–27). This juxtaposition: Gunsteren (1998, 16–30).
 - 22 Dobson and Clarke (2001, 62, 66); Mouffe (2001, 136); Heater (2004, 2, 143). See Just (1989, 20) (“the right to hold and exercise political power”); Ober (1989, 3–6); Hansen (1991, 97); Meier (1996, 41); Gschnitzer (1997, 404); Maffi (1998, 19); Lintott (2009, 510–511); Giangiulio (2015, 37–38).
 - 23 *La Grande Encyclopédie*, 11 (1980), 497 s.v. “citoyen”; *The New Encyclopedia Americana*. International Edition, 6 (1992), 742 s.v. “citizenship”; *The New Encyclopaedia Britannica. Micropaedia*, 3 (1993), 332 s.v. “citizenship.”
 - 24 E.g., Harrison (1991, 211); Bosniak (2003, 187, 190, 198).
 - 25 Cf. affirmations of legal equality of “all people” in the Russian Constitution art. 19 and the German Constitution art. 3.1 on the one hand, and of “all citizens” in the French Constitution art. 1 and the Italian Constitution art. 3 on the other.
 - 26 E.g., T. A. Aleinikoff, in eds. Levy and Karst (2000, 368): “the [American] Constitution does not define rights in terms of citizenship; rights are generally guaranteed as human rights, irrespective of status . . . Aliens, then, benefit from a kind of constitutional citizenship.” Aliens, however, have to pay higher taxes, lack economic and social benefits, and have no access to certain political and legal functions (see below).
 - 27 Bendix (1964, 74–79); Brubaker (1992, 35–72). Cf. Riesenberger (1992, 271–272): even after the idea of a “national citizenship” developed, real political participation was still limited to a segment of the population for a long time; Magnette (2005, 184).
 - 28 Bader (1995, 223) (with bibliography); Cordini (1998, 116–119); A. Patten and R. Poole, in ed. Seymour (1999, 235–256, 357–378), respectively.
 - 29 E.g., G. P. López, in eds. Levy and Karst (2000, 366): “where the position is ultimately related to the process of democratic self-government (the so-called political function exception), the [Supreme] Court has upheld laws requiring police, public teachers, and probation officers to be citizens”; P. H. Schuk, in eds. Levy and Karst (2000, 366): “citizens, but not aliens, may vote, serve on juries, and serve in certain high elective offices and certain high (and not so high) appointive ones.” Among other things, such references point out that the ancient Greeks understood political rights, and political functions, differently from how they are understood today, as we shall see below.
 - 30 E.g., Gettys (1934, 1–2); Karst (1989, 3, 177–188); Shklar (1991, 5, 14, 26–38).
 - 31 Patterson (1986, 49); Cohen (2000a, 49, n. 1); Hartmann (2002, 49); Blok (2004, 2); Wijma (2014, 14–15); Seelentag (2015, 275), who still referred to *politai* as citizens although putting the latter word in quote marks.
 - 32 E.g., Welwei (1992, 180); Ostwald (2000a, 50–51); Rhodes (2006, 253); Tsigarida (2006, 96, 99, 109); Kamen (2013, 98); Schmitz (2014b, 48).
 - 33 Vatin (1970, 115–116); Just (1989, 13); Whitehead (1991, 137–138); Lonis (2000, 49); Morris (1996, 23); Manville and Ober (2003, 16).
 - 34 The former view: e.g., Just (1989, 13). The latter: e.g., Thür (2005, 150–151).
 - 35 E.g., Soph. *Electr.* 1227; Eur. *Electr.* 1335; Dem. 57.30 and [Dem.] 59.107.
 - 36 Women as *politides*: *SGDI* 2133.10 (Delphi, 182 B.C.); *IG* XII.7, 36.5–7 (Amorgos, second cent. B.C.), 386.21–22 (Aegialae, third cent. B.C.); *PH* 10a.9–11 (third cent. B.C.); Segre, no. ED 178a(A).16–17 (late third cent. B.C.); *SEG* 14, 532.1–4 (Ceos, third cent. B.C.); *I.Stratonikeia* 172.9, 248.10 (Panamara, the imperial period). Cleopatra: *CIRB* 124.2 (first cent. B.C.).
 - 37 The Molossians: *SEG* 15, 384.1–6 and 20–24 (Dodona, 370–368 B.C.); Dyme: *Syll.*³ 531 = *SEG* 40, 394 = Mackil (2013, 456), II.17–20 (third cent. B.C.). See also *I.Perge* 12.42–43 (Hellenistic period); *Milet* 13, 149.10–12 (see page 118, n. 4); *I.Stratonikeia* 149 and 174: to *politeuma ton gynaiikon*, with Lüderitz (1994, 189–190). Cf. grants of

- politeia* to women as members of the family of the main recipient: e.g., *Milet* I 3, 64, 70, 72, 74 etc. (third–second cent. B.C.); *I.Mylasa* 401.20–23 (late second–early first cent. B.C.).
- 38 E.g., *Milet* I 3, 64, 70, 72, 74, 79 etc. (third–second cent. B.C.).
- 39 Mossé (1979a, 243 n. 4), but see Mossé (1995, 40), where the use of that definition was acknowledged as “very rare”; Patterson (1986, 55); Ober (1996, 170); Whitehead (1986a, 77); Hedrick (1994, 300); Vatin (1970, 116). Cf. Brun (2010, 132) and D. M. Pritchard, in *G&R* 61 (2014), 177, who asserted that the term *politiss* was employed only very rarely, and Jones (1999, 129–130), who correctly observed that the “frequency of occurrence decides nothing” and that ancient sources made references to *politides* in a variety of contexts.
- 40 Sealey (1987, 9–13); Loraux (1993, 8, 10); Fantham *et al.* (1994, 73–74); Omitowaju (2002, 23–26); Brun (2010, 132); Cohen (2015, 76–77). For Athenian “citizenesses,” see Cox (1998, 101); Omitowaju (2002, 26, 42, 43, 46, 79, 126); Cohen (2015, 73) (both for *astai* and *politai*).
- 41 E.g., Kahrstedt (1934, 71) (even if observing that women and children had no citizenship in a “technical sense”); Lévy (1980, 236); Patterson (1981, 166); Mossé (1983, 61); Kamen (2013, 95).
- 42 Sealey (1990, 13).
- 43 Carey (1992, 26), who acknowledged that women did not have citizen rights in Athens.
- 44 On women as a segment of the “citizen class”: Hansen (1997, 10, 42); Patterson (1994, 202).
- 45 Sherwin-White (1978, 179); Fantham *et al.* (1994, 74), respectively. See Francotte (1910, 206); Kapparis (1999, 10) (“citizenship for a woman consisted in the possibility of being given in lawful marriage, the right to give birth to citizens, and participation in the life of the community as a member and representative of an Athenian *oikos*”); Bernard (2003, 129–131) (on women as members of the “civic reproduction group” without political rights), 145 (on the “religious citizenship” of women); Lape (2004, 25) (“women possessed citizen status – a specifically sexual and reproductive status”), 99; Blok (2004, 13) (on women as citizens in fields other than political activity), 17 (on the coexistence of different concepts of citizen status in Athens), 25; Blok (2009a, 107) (“men and women were citizens, but their roles as citizens differed in some important respects”). For the alleged role of the so-called Pericles’s citizenship law in establishing this status for women, see page 209, nn. 91–93.
- 46 Cantarella (2005b, 245); Lambert (1998, 27 n. 8, 40) respectively; see also *ibid.*, 26–31, 35, 43. Szanto (1892, 105); Hansen (1991, 96); Rhodes (1992, 83).
- 47 E.g., Billheimer (1938, 9–10); Sealey (1983, 97–98); Marek (1984, 152); Lape (2010, 3) (see n. 19 above).
- 48 Arist. *Pol.* 3.1.3–4, 1275a.6–8 and 14–27. E.g., Osborne (2011, 89): “Unlike the boys, not yet enrolled, and old men, exempted from service, whom Aristotle agrees to reckon to be qualified citizens, women appear not to meet Aristotle’s citizen definition at all,” and Blok (2013, 162–163): “Aristotle’s theoretical conception of the citizen, which cannot account for the male and female citizens who did not have access to political office but were nonetheless *politai*, is unsuitable to illuminate the historical realities of ancient Greek citizenship.” For a discussion of Aristotle’s reference to the retirement of the elderly from political affairs, see Lacey (1968, 130–131).
- 49 This approach: e.g., C. Mossé, in *Eirene* 16 (1978), 87; Mossé (1995, 27); Magnette (2005, 19, 187); Duploux (2011, 90). Cf. Eder (1997, 821): not all citizens enjoyed equal political rights.
- 50 E.g., Arist. *Ath. Pol.* 7.3–4; Harp. Θ 24; Poll. 8.130–131.
- 51 For holding them as the “citizen population” in Solon’s Athens, see page 82, nn. 12–13 and also n. 1 above.

- 52 Lys. 13.73 (ὥστε οὐκ ὦν Ἀθηναῖος καὶ ἐδίκασε καὶ ἡκκλησιάσας); cf. 13.70: καὶ ἀντὶ τοῦτου φησὶν αὐτὸν Ἀθηναῖον τὸν δῆμον ποιήσασθαι (“and in reward for this, he says, the People made him an Athenian”). For the use of ethnics, see previous chapter.
- 53 [Dem.] 59.92, 104, 106 (see pages 283–284 and 286, n. 14).
- 54 This interpretation: Roussel (1951, 123–124); Mossé (1979a, 242); Gauthier (1981, 170) (with n. 12); Whitehead (1991, 140); Lonis (2000, 27); Patterson (2009, 51). See also Rutten (1992, 125–132); Morrison (1999, 143–165); Magnette (2005, 187).
- 55 And. 1.74–76, with Harris (2013b, 379); Dem. 22.24, 30, 73; Aeschin. 1.21.
- 56 Cf. Dem. 57.30–31: the law, ascribed by the Athenians to Solon, which prohibited any alien from doing business in the market (see page 124, n. 100).
- 57 E.g., Hansen (1976, 61–66); Lévy (1980, 239); Winkler (1990, 195–196); Welwei (1992, 171–172); Hunter (2000, 16) (“he was excluded from all magistracies and priesthoods and could not sit on the juries or in the assembly”); Karabélias (2005, 280); O’Sullivan (2009, 27, 114). Cf. G. Thür, in *NP* 2 (1997), 215 and Rhodes (2012a, 199), who do not seem to share this view.
- 58 Dem. 22.34: *legein ou prosekén oude graphein*, 24.201. On the transgenerational nature of *atimia*, see appendix 1.
- 59 [Dem.] 59.6. Such evidence appears to go against Cohen’s view that “consensual arrangements for sexual services did not evoke moral outrage at Athens,” and undermine his idea of ancient Greek (male) prostitution “by contract, not by status”: Cohen (2000b, 131, 123), respectively. He never touched upon the problem of *atimia* for the prostitution of males who had political rights, i.e. who were *astoi* and *demotai*, in Athens. The same was true for women: although some families gave their female *astai* members in concubinage as “children of *hetairai*” in Athens, this practice was not socially acceptable (see chapter 1); by the same token, accusing Neaera of prostitution was intended as proof of her alien status ([Dem.] 59). Status did make a difference.
- 60 Dem. 45.79; Aeschin. 1.14, with D. M. MacDowell, in *Revue internationale des droits de l’antiquité* 42 (2000), 23–24, who held the status of paid catamites as being one of partial *atimia*, which allowed them to attend and vote at popular assemblies, but prohibited them from speaking, i.e. making proposals. Cf. Bearzot (1997a, 46, 55); Phillips (2013, 176), who referred to holding an office, participating in an assembly, and serving as a juror (ἄρχειν, ἐκκλησιάζειν, δικάζειν) as political, or citizen, rights in ancient Athens; see also above.
- 61 E.g., Dem. 22.30–32. This law has been dated to the fifth century by A. Lanni, in *Classical Antiquity* 29 (2010) 45–67, at 56 n. 76, because this date fits her interpretation of that law as targeting aristocratic influence in Athenian politics, which came under fire in the fifth century. However, these rationalizations are not compelling: *atimia* was a much older phenomenon, predating Solon’s reform: see Plut. *Sol.* 19.3 with Dmitriev (2015a, 41 n. 29, 45–50). We can, however, ascribe the establishment of the distinction between one’s political and legal status to Solon.
- 62 E.g., Lipsius (1905–15, 396, 930–932 n. 2); Busolt (1926, 230–231); Ehrenberg (1969, 41); Harrison (1971, 82–85); M. Rainer, in *Revue internationale des droits de l’antiquité* 33 (1986), 110; Todd (1990, 218–219) s.v. “*atimia*.”
- 63 E.g., Busolt (1926, 939–979); Gschnitzer (1981, 29); Sealey (1983, 98, 1990, 13); Vatin (1984, 59); Whitehead (1986b, 109); Just (1989, 14); Ogden (1996, 69); Gschnitzer (1997, 403); Tsigarida (2006, 31); Kapparis (1999, 24); Blok (2004, 3); Hansen (2006, 40); Blok (2009c, 159); Lape (2010, 11–12); and bibliography in Cohen (2000a, 50 n. 7).
- 64 Patterson (1981, 155, 1986, 54): “In brief, *polites* denoted the member of the political community with public and competitive connotations; *astos* . . . retained a more communal meaning of ‘insider’ – especially as viewed against the *xenos* or ‘outsider,’” which she developed in 2007, 168–169, and 2009, 52–53; Paoli (1930, 198, 294).

- 65 Davies (2004, 27–28); Blok (2004, 5). Thuc. 6.54.2; Dem. 57.43 and [Dem.] 59.107. Cf. Niku (2007, 16): “the two terms began to be used inconsistently and summarily, often as synonyms,” in the latter half of the fourth century.
- 66 E.g., Braunstein (1911, 16); Chapot (1929, 11–12); Vatin (1984, 66); Sealey (1983, 98, 1990, 13); Effenterre (1985, 30); Lévy (1990, 62, 64); Ogden (1996, 69); Hansen (1997, 10–11, 58); Cohen (2000b, 114 n. 6, 126 n. 57).
- 67 Braunstein (1911, 16); Vatin (1984, 181–182); Cantarella (2005b, 245). See also Walters (1983, 316 n. 7); Patterson (1994, 201): on *aste* and *politai* as “feminine forms of the term ‘citizen,’” and Schmitz (2014a, 114 n. 115).
- 68 Cohen (1997, 59–64, 2000a, 49–63).
- 69 Residency: e.g., Fraser (2009, 26–28), with page 43, n. 2. Lineage: e.g., Lévy (1985, 56–57); Vèrilhac and Vial (1998, 43, 49, 377); Hansen (2006, 111–112); cf. Oliveira Gomes (2007, 88–89), who perceptively distinguished between *astoi* and *politai* on the basis of the former group having its membership because of blood connection (“par les liens du sang”), but still counted *astoi* and *politai* as citizens, while asserting that the status of *politai* had a more pronounced political emphasis, and Kamen (2013, 113): the term *astos* “consistently refers only to citizens in that it stresses one’s status as a native inhabitant more than one’s role in the political realm.”
- 70 Lévy (1985, 53–66): on *astoi* as a community defined by descent, juxtaposed with *politai*, who belonged to the “political domain;” Meier (1996, 50), pointing to the tendency to use the word *astos* in a “broader, not specifically political sense”; Vèrilhac and Vial (1998, 377): on *astos*, -e as a “person born in the community to which she legally belongs,” juxtaposed with *polites*, -itis (380) as a “citizen”; J.-P. Bonnard, in *Métis* n.s. 1 (2003), 91 on *astos* as a citizen in a broad sense, of the civic body, while on *polites* as a citizen in a narrower sense, of a political body (for the history of that view, see Chapot 1929, 8); Oulhen (2004, 275); Lintott (2009, 512); Blok (2009c, 153); Brock (2010, 96): “*Astos* and *polites* are not simply interchangeable terms: the former is much more likely to be used where membership of the community is in question, while the latter is more frequently applied to community action, particularly of a formal or official nature.” See also Patterson (1986, 54) (see n. 64 above).
- 71 Osborne (2011, 94): in some cases, the word *polites* is better translated as a “fellow-countryman,” and 102: “. . . while, in Athens at least, *astos* comes to be used precisely for those given political capacities, and so to indicate a particular legal and political status, *polites* remains widely used to cover a whole range of ways of belonging to the community, of which having political capacities is only one.”
- 72 See page 11, n. 17. If this dating is correct, then this idea was a later rationalization in retrospect. Yet, it is tempting to connect the vision of *astoi* as a privileged hereditary group of local residents with the names Acte (Syncell. *Chron.* 76.1–2, 175.18: Ἀκτῆ), or Actaea (Paus. 1.2.6: Ἀκταῖα), or Actike (*IG* XII.5, 444 = *FGrH* 239 [Marmor Parium] F A 1: Ἀκτικῆ), which had allegedly been used before the name Attica started to be applied. They were all evidently derived from the name of Actaeus, the father-in-law of Cecrops: Paus. 1.2.6, with Gourmelen (2004, 60). On Actaeus and Cecrops, see Brulé (2007, 182–183, 187–191).
- 73 Lys. 34.3, with 31.5–6; Isocr. 4.105. Cf. Pl. *Menex.* 8, 238de.
- 74 Such *politai*, however, had the right to arrange an engyetic marriage with Athenian *astai*, and to father legitimate (*gnesioi*) children: see above and also chapter 5 and appendix 3.
- 75 E.g., Davies (1977–8, 105–121); Whitehead (1986b, 109–113); Carey (1991, 84).
- 76 Whitehead (1986b, 111–113). He spoke of “marriage” in general terms (110), and of Archippe’s status as that of both an *aste* and *xene* (113). Carey (1991, 84–89). For the status of Archippe as a *politai*, see the preceding chapter.
- 77 On the latter: e.g., Hdt. 1.54.2; *F.Delphes* 3.4, 79.2–4 and 80.2–7 (early second cent. B.C.). See also J. Robert and L. Robert (1983, 97 no. 2) (321–320 B.C.), 153 no. 15 (201 B.C.).

- 78 The Cretans: Arist. *Pol.* fr. 88a (*FHG* 2: 131–133 = fr. 518–519 [R]). The Arcadians: Arist. *Pol.* fr. 91 (*FHG* 2: 134 = fr. 483). The Chalcidians: Arist. *Pol.* fr. 105–108 (*FHG* 2: 141–142; see fr. 600–603). The Aetolians and the Acarnanians: Arist. *Pol.* fr. 127 (*FHG* 2: 146–147 = fr. 473). The Thessalians: Arist. *Pol.* fr. 145–148 (*FHG* 2: 151; see fr. 495–500).
- 79 E.g., the Cretans: Heracl. *Pol.* fr. 3 (*FHG* 2: 211–212 = Dilts 1971, nos. 14–15 = Polito 2001, nos. 14–15), and the Chalcidians: Heracl. *Pol.* fr. 31 (= *FHG* 2: 222 = Dilts 1971, nos. 62–63 = Polito 2001, nos. 62–63) with Xen. *Hellen.* 5.2.12 on the resurrection of the Chalcidian League in the late 380s.
- 80 *StV* 3, no. 508.III.4–6 (Ceos, 223–222 B.C.?).
- 81 Polyb. 28.14.3 (Apollonia and Cydonia). The Aetolian League: Polyb. 2.46.2 (with Tegea, Mantinea, and Orchomenus), 4.3.6 (with Phigalea). The Lycian League: *SEG* 18, 570.56–57, 61–62 (ca. 180 B.C.) with Zimmermann (1992, 160–162).
- 82 E.g., Szanto (1892, 64–65); Larsen (1957, 14, 23, 26); Cataldi (1983, 358–359); Baslez (1984, 292–293).
- 83 E.g., P. Perlman, in *CP* 87 (1992), 193–205 on grants of *politeia* by the Cretans as an artificial invention by political philosophers.
- 84 “Potential citizenship”: Szanto (1892, 23). “Honorary citizenship”: MacDowell (1978, 71); Bordes (1982, 58, 61); Baslez (1984, 107); Todd (1993, 175); Liddel (2007, 180); Schmitt (2005, 218). “Passive citizenship”: Lotze (1981, 159–170); Lambert (1998, 27 n. 8); Manville (1990, 5). The “activation”: Szanto (1892, 56); Osborne (1972, 152–153); Gauthier (1985, 150–151, 1986, 128–130); Errington (2008, 105).
- 85 E.g., W. Schwahn, in *RE A* 4 (1931), 1174; Larsen (1968, 8–9); Walbank (1984, 232–233), and below.
- 86 E.g., Chapot (1929, 12); Bordes (1982, 46); Savalli-Lestrade (1985, 392); Sherwin-White (1978, 153); Davies (1977–8, 107); Davies (1984, 309). Sakellariou (1989, 93); Gawantka (1975, 21–23); Lévy (1993, 77). Larsen (1957, 20).
- 87 See, e.g., Osborne (1972, 152); Giovannini (2007, 309).
- 88 Resettlement: Savalli-Lestrade (1985, 410–411); Giovannini (2007, 309); cf. Wilhelm (1951, 23–24); Walbank (1976–7, 33); Schmitt (2005, 218). Enrollment: e.g., Paoli (1930, 285); Osborne (1972, 152–153); Gauthier (1985, 151, 197); Gschnitzer (1981, 123). See also Hornblower (1991, 449); Jones (1991, 79); Savalli-Lestrade (1985, 427), followed by Lonis (1992a, 247). The *metekhein*-formula: Giovannini (1971, 23); Gawantka (1975, 22–23, 27–29, 31); Davies (2012a, 333–334); cf. Ostwald (1996, 55); Wijma (2014, 24, 35). However, this formula was also used in grants of *politeia* to women and children, who had no political rights, which undermines its interpretation as only applicable to citizens: e.g., *Milet* I 3, 150 (= *Syll.*³ 633).43–48: the treaty of isopolity between Miletus and Heraclea by Latmus (ca. 185–184 B.C.).
- 89 Busolt (1926, 225); Larsen (1968, xv); Giovannini (1971, 24). See also Braunstein (1911, 19); Kolbe (1929, 132).
- 90 E.g., Szanto (1892, 112, 150); Swoboda (1924, 7); Kolbe (1929, 132).
- 91 Fraser and Bean (1954, 170); Sippel (1966, 73). Larsen (1968, xx). Cf. Mackil (2013, 388): “citizens of *poleis* that were members of a *koinon* automatically became citizens of the *koinon* too”; so also Rizakis (2012, 29).
- 92 Chaniotis (1996, 106) and n. 632 with the corresponding bibliography; C. Lasagni, in *Dike* 12–13 (2009–2010), 219, 264, and Lasagni (2011, 87, 130) (on the “generic notion of double *politeia*, local and mutual”), 131 (a “federal *politeia*”), 234; Rizakis (2012, 24); Mackil (2013, 341) (the quote).
- 93 The Acarnanian League: *IG* IX.1², 393.2–4 (early third cent. B.C.), 573 (late fourth cent. B.C.). The Thessalian League: *SEG* 34, 558.8–10, with *IG* IX.2, 507.24–29, with B. Helly in *Bull.ép.* 1998.211, and 508.13–14 (Larissa, second cent. B.C.), with *SEG* 23, 448.26–31 (Demetrias, second cent. A.D.). The Aetolian League: *StV* 3, no. 508.III.4–6 (223–222 B.C.?): see also C. Antonetti, in *ZPE* 101 (1994), 128 (l.13: *πολιτεύοντα* [ἐν ταῖς πόλεσι τᾷς Αἰτωλίας]). Since grants of *politeia* had local

- variations, it is not necessary to follow P. Cabanes (*Bull.ép.* 1995.282, p. 473) in rejecting this restoration simply because the Acarnanian League granted *politeia* in only one of its cities. The Delian *koinon*: *IG* XI.4, 1038.17–19, 1039b.3–5, 1040.11–12, 1046.11–14 (third cent. B.C.).
- 94 E.g., Francotte (1907, 150). See also Klose (1972, 94 n. 308); Larsen (1968, xv, 203).
- 95 Larsen (1968, xv, 202–207); Gauthier (1985, 198). See also H. H. Schmitt, in *Symposium* 1993 (1994), 35; Giovannini (1971, 20–24); Riele (1987, 175–176); Chaniotis (1996, 106) (see n. 92 above); Rhodes (2012d, 1418).
- 96 E.g., Chaniotis (1996, 107); Rizakis (2012, 36–38).
- 97 E.g., Klose (1972, 143); Larsen (1968, 203, 207); Gauthier (1972, 347–348, 360); Gschnitzer (1981, 123); Walbank (1984, 235); Vestergaard (2000, 105); Rhodes (2012c, 749).
- 98 E.g., Larsen (1957, 10–14); Gawantka (1975, 22). An “abstract grant”: Gawantka (1975, 27, 31).
- 99 E.g., Szanto (1892, 71–72); J. Oehler, in *RE* 18 (1916), 2228; Larsen (1968, 202); Gawantka (1975, 20–22, 27, 30–31); Walbank (1984, 235); Rhodes (2012c, 749).
- 100 Arist. *Ath. Pol.* 41.2 with Robertson (1986, 175–176), who interpreted these words as referring to Solon’s establishment of *demokratia*. Ruschenbusch saw such references as reflecting the views of “radical democracy” in the mid-fourth century: (1958, 400–402, 419) (on Solon as replacing Theseus in the role of the founder of Athenian democracy, in the mid-fourth century), 422–424, and E. Ruschenbusch, in *Hermes* 109 (1981), 322.
- 101 On the origins of this view, see esp. Ruschenbusch (1958, 399–408, 419); Mossé (1979b, 425–437); Hansen (1990, 71–99). On the later interpretation of Solon as the founder of democracy in Athens: e.g., Day and Chambers (1962, 66–89); Bleicken (1994, 17–18); Ruschenbusch (2005, 213, 233).
- 102 Cf. Manville and Ober (2003, 64): with the reforms of Cleisthenes, “democratic citizenship came fully into being,” 76: “Cleisthenes completed the revolution begun in the time of Solon”; D. M. Lewis, in eds. R. M. Rosen and J. Farrell 1993, 208 (“Aristotle was also aware of those who blamed Solon for radical democracy because he made the jury-court κύριον πάντων”).
- 103 Dmitriev (2015b, 68–83) (with bibliography).
- 104 Arist. *Pol.* 4.5.3, 1292b.24–25; see also 4.5.6–8, 1293a.12–34.
- 105 Arist. *Pol.* 5.2.11, 1303b.4–8. Isocr. 4.105 (*tes politeias apostereisthai*); cf. Aeschin. 2.182: on the loss of *politeia* as a result of an accusation during a scrutiny (*esteretai tes patridos*) and next chapter.
- 106 E.g., Arist. *Pol.* 4.6.4, 1294a.12–14; 5.3.5, 1304a.17–18; 5.7.7, 1308b.11–12; 5.10.5, 1316b.12–14, and a thorough discussion by Cohen (1995, 227–244).
- 107 Arist. *Pol.* 3.1.3–4, 1275a.6–8 and 14–27 (see n. 48 above).
- 108 Xen. *Mem.* 4.6.12. Different possible interpretations of the word *timema* do not affect the conclusions and observations made later in this chapter; e.g., M. Fränkel, in *Hermes* 18 (1883), 314–318 focusing on whether *timema* designated an absolute or relative (i.e., above a certain established limit) value of one’s property.
- 109 Arist. *Pol.* fr. 106 (= *FHG* 2: 141 = Strabo 10.1.8, C 447 = fr. 603); Heracl. *Pol.* fr. 25.4 (= *FHG* 2: 219 = Dilts 1971, no. 55 = Polito 2001, no. 55).
- 110 E.g., Arist. *Pol.* 3.3.4, 1278a.22–24; 4.7.3, 1294b.9–10; and 5.5.5, 1305b.32–33.
- 111 Cumae: Heracl. *Pol.* fr. 11.6 (= *FHG* 2: 217 = *Heraclidis Lembi Excerpta Politiarum*, 26, no. 39), with Sealey (1974, 268) (“a property-qualification for active citizenship”). Boeotia: *Hellen.Oxy.*, fr. 16.2 (Bartoletti) = fr. 19.2 (Chambers; Behrwald), with Rhodes (1994, 581) (“a property qualification for full citizenship”). Cyrene: *SEG* 9, 1.6–10 (322–321 or 308–307 B.C.) with Oliverio (1928, 196–197).
- 112 E.g., Thuc. 8.53.3. Cf. Pl. *Rep.* 8, 551b and Arist. *Rhet.* 1.8.3–4, 1365b–1366a.
- 113 Arist. *Pol.* 3.1.2, 1275a.3–5 and 3.1.6, 1275b.4–8, respectively.
- 114 Arist. *Pol.* 4.5.3, 1292b.24–25 and 5.2.11, 1303b.4–8, with Isocr. 4.105 (see nn. 104 and 105 above).

- 115 Cf., e.g., Hansen (2006, 112): “a *polis* is a community of citizens from which non-citizens are excluded.”
- 116 Plut. *Sol.* 17.1–2, 25.1, and *IG I³* 104.4–6 (on Draco), 10, 56 (on *axones*). See Lipsius (1905–15, 17–18); Busolt (1926, 807 n. 1); Stroud (1968, 31–34); Stroud (1979, 3–7); Robertson (1986, 147–176).
- 117 This problem: e.g., Miller (1905, 1649, 1655); Martina (1968), FF 384 and 400; Ruschenbusch (1966, 71 F 5a*, 74–75 FF 18a** and 19a**); Stroud (1968, 31–34); Tsigarida (2006, 15 n. 8).
- 118 Xen. *Oecon.* 14.4; Arist. *Ath. Pol.* 7.1; cf. Pl. *Rep.* 8, 563d; Plut. *Sol.* 25.1. See Rhodes (1981, 440–441); Clinton (1982, 32–35); Immerwahr (1985, 125); Sickinger (1999, 17, 33–34); Leão and Rhodes (2015, 22). John Tzetzes (ca. 1110–ca. 1180/1185) distinguished between *axones* and *kyrbeis* as being of rectangular and triangular shape, respectively, and as containing different kinds of laws (*nomoi*): those on the *axones* were private laws, whereas those on the *kyrbeis* concerned various officials and public life; see Tzetz. *Chil.* 12.349–353 (K.) = 12.344–348 (L.).
- 119 *IG I³* 104.16–19 with [Dem.] 43.57; Poll. 8.125.
- 120 And. 1.81–83 with Clinton (1982, 30–31), followed by Immerwahr (1985, 134); Schol. Aeschin. 1.39 [82]: *nomous*.
- 121 [Dem.] 47.71; see also [Dem.] 43.57 and 47.70–72 in general.
- 122 Lipsius (1905–15, 15–20); Busolt (1926, 807 n. 1); Starr (1979, 127–128); Thür (1990, 145); Mossé (1995, 70); Hölkeskamp (1997b, 810–811); Schmitz (2001, 28–33, 2004, 153); Phillips (2008, 56); Bearzot (2008, 39–40); Pepe (2012, 29). Modern studies have distinguished between the introduction of regulations substituting blood feuds and the introduction of laws punishing murderers, considering them two separate stages: e.g., Thür (1990, 150); Schmitz (2001, 28–30), who dated the origins of the latter to the time after Draco.
- 123 For convenient overviews, see Gagarin (2008, 72–74, 85–86).
- 124 E.g., Thomas (1995, 59–61, 73–74, 2005, 56–57); Wallace (2007, 55); Bearzot (2008, 32–33).
- 125 Aristocrats vs. commoners: Wolff (1946, 80–81): on Draco’s legislation and Solon’s “constitution” as resulting from “disputes arising between nobleman and commoner”; Phillips (2008, 35–36): on the laws of Draco as having been motivated “not by horizontal *stasis* between rival aristocratic clans but by vertical *stasis* between aristocracy and the masses,” 46: for both Draco and Solon. Inner-aristocratic competition: Wolff (1946, 81); Papakonstantinou (2002, 146–147): on written law as a “medium of production of meaning and ultimately social order that was consciously and deliberately manipulated and disseminated in the context of inner-aristocratic factional strife for political hegemony”; Hawke (2011, 132–133, 146, 189); Rose (2012, 232–233); cf. Ober (1989, 59) who marked the two options but made no choice between them.
- 126 Eur. *Suppl.* 433–437 (cf. Lys. 1.1–2); further evidence: Lacey (1968, 272–273); Thomas (1995, 59); Bearzot (2008, 32–33).
- 127 Gagarin (2007, 3–17) (with a critique of opinions on the origins of written laws in Athens) and (2008, 72–73, 89–90).
- 128 Eder (2005, 262–264).
- 129 E.g., Wolff (1946, 69–70); Ruschenbusch (2005, 135–140); Vélissaropoulos-Karakostas (2005, 113, 118); Gagarin (2008, 110–121), with Wolff (1980, 572–577).
- 130 E.g., Wolff (1939, 43–44, 50) (on lawful marriage through a cohabitation without a written contract as “a Greek custom”); Pébarthe (2006, 135, 141) (with bibliography). References to “unwritten laws” first emerged in the 440s: see Soph. *Antig.* 454–455 (*agrapta nomima*) with Ostwald (1973, 70); Pébarthe (2006, 141–142).
- 131 Gagarin (2005, 124); Thomas (2005, 53): “many early written laws concern procedure rather than substance”; Hölkeskamp (1992, 103, 1994, 135, 139, 151–156, 1999, 269) (specific fields of activity), 273–280 (institutionalization of legal norms); Papakonstantinou (2002, 135–150, 2008, 92–93): the spread of law “not because the commitment of

- statutory norms to writing in some way ‘democratized’ law, but because more Greeks participated, in a meaningful way, in the legal system,” 128 (the quote).
- 132 This theory: page 85, nn. 50 and page 88, nn. 79–82.
- 133 K.-J. Hölkamp, in *Métis* 8 (1993), 66–72; Hawke (2011, 132–133, 146, 189). Sealey (1994, 120–125); Sickinger (1999, 32).
- 134 Discussions of this and related issues: Frezza (1968, 1–29); D. Musti, in *Scrittura e civiltà* 10 (1986), 21–48.
- 135 Thomas (1995, 71–74); Gagarin (2008, 86): “the increasing need for detailed rules in cities that were growing larger and more diverse and the desire of a body of ordinary members of the community to confirm their own authority were the most important factors behind the rapid spread of publicly displayed, written legislation. Both factors also provided a reason to display these laws prominently in public places and to make the texts as readable as possible.”
- 136 Finley (1951, 21–22), who, in spite of his occasional insensitivity to the status of contracting parties (e.g., page 122, n. 65), correctly connected this situation with juxtaposing “citizens” to aliens; 22 (“neither a farm nor a citizen-landowner could disappear easily; an alien shipowner or merchant could, along with his ship and its cargo”), observing (*ibid.*) that “landed property and money were to a considerable degree separate and unrelated spheres in the economy – the persistent denial of the right of land ownership to non-citizens is the most salient illustration,” and 53–54 for the same approach. Cf. Lanni (2006, 167–174) (with no reference to Finley whatsoever), who explained this situation (171) by specific aim of the *dike emporike* “to facilitate trade by providing a predictable procedure and attracting foreign merchants.” She never stated it directly, but the point remains that written law came into play when relations were being established with outsiders. This issue was similarly ignored by Deene (2014, 163–164), who asserted that “citizens and non-citizens closely cooperated in commercial activities.”
- 137 E.g., Millett (1982, 243–245): 7 out of 12 *horoi* marking the *hypotheke* obligation, 8 out of 124 *horoi* marking *prasis epi lusei* obligations, and 1 out of 32 *horoi* marking dotal *apotimema* obligations. It is hard to say whether the ratio of written contracts in *hypotheke* obligations has been accidental or whether it was caused by some specific reason(s). For references on the *horoi* to written agreements as very rare, see also Finley (1951, 21–24), incl. 22–23: “I suggest, therefore, that in the field of real security a written agreement was the exception rather than the rule.” This is not the place to join the debate about relationship between *hypotheke* and *prasis epi lusei*: see Harris (2013a, 132); Sundahl (2014, 227–231); Thür (2014, 239–246).
- 138 The written form of maritime contracts: Dem. 32.1, with Cohen (1973, 56–57, 100–114; Sundahl 2014, 215). For the former explanation, see n. 136 above. Cargo serving as the security for a loan: Dem. 35.10–13; Thür (2014, 241–243).
- 139 E.g., Arist. *Ath. Pol.* 41.2, with, e.g., Hölkamp (1997b, 810); MacDowell (2012, 477).
- 140 E.g., Arist. *Ath. Pol.* 7.1; Diog. Laert. 1.45; Gagarin (2008, 181). Solon’s laws and *axones*: Ruschenbusch (1966, 10–38).
- 141 E.g., Ruschenbusch (1966, 14–22); Sealey (1987, 140–145) (with a detailed overview of opinions); Sickinger (1999, 26–27); Noussia-Fantuzzi (2010, 20 n. 6); Davis (2011, 3–9) (a detailed review of opinions), 21: “it is simpler to propose that the archaic ‘Solonian’ laws were on *kurbeis* and copied on *axones*.”
- 142 *FGrH* 72 (Anaximenes of Lampsacus) F 13; see also Poll. 8.128, with reviews of the evidence by Holland (1941, 348); Shear (1994, 240); Davis (2011, 10–17, 21) (see preceding note); Leão and Rhodes (2015, 7–8). Arist. *Ath. Pol.* 7.1.
- 143 De Sanctis (1975, 257 n. 25); Sickinger (1999, 26–27); Gagarin (2008, 181 n. 13).
- 144 On the two words as applied to the “same set of objects”: Rhodes (1981, 132); P. J. Rhodes, in *OCD*⁴, 217; Leão and Rhodes (2015, 5); *pace* Welwei (1992, 165) (with n. 64); Davis (2011, 17): “*kurbeis* and *axones* were physically unrelated objects used for different purposes” and 21 (see n. 141 above).

- 145 *P.Berol.* 5008.B (with reference to Anaximenes), in F. Blass, in *Hermes* 17 (1882), 152, ll.19–24. The exact date of the building identified as the Royal Stoa has been debated: see page 12, n. 36.
- 146 Sickinger (1999, 32–33).
- 147 See page 55, n. 146, and also Hölkeskamp (2005, 290) (see n. 156 below).
- 148 E.g., Thomas (1995, 62–64, 66): “in the archaic period what we call law and custom were barely distinguished from each other as concepts.” This approach conceals a methodological error: the understanding of *nomos* as a law (in a narrower, technical sense) developed later and was then projected into the past, which has certainly created a great deal of confusion, because the earlier Greeks had used the same word, *nomos*, in a broader sense. In a similar fashion, the word *politeia* first originated as a social concept and only later came to be associated with a specific political regime.
- 149 Cf. Gagarin (2007, 15–16): “all inhabitants of Attica belonged to a single political community, a *polis*, that was Athens.”
- 150 This might explain why some ancient authorities say that Solon’s laws on the *kyrbeis* concerned sacred laws, that is, those dealing with sacrifices and, therefore, pertaining to the kinship community: e.g., Lys. 30.17, 18, 20; *Hesperia* 7 (1938), 3, no. 1.87 (363–362 B.C.), with Sickinger (1999, 26–27).
- 151 Hunter (1994, 187). For similar views, see bibliography collected in Tulin (1996, 3 n. 5).
- 152 E.g., Tulin (1996, 4–5).
- 153 *Dikai*: *IG* I³ 104; [Dem.] 47.68–72; and Pl. *Eutyph.* 3e7–5d7. *Graphai*: Arist. *Ath. Pol.* 9.1. Ascribing the introduction of *graphai* to Solon: e.g., Harrison (1971, 76–77); Gagarin (2008, 111, 228). For a representative catalogue of *graphai* and *dikai* (in this order), see Osborne (2010, 196–200).
- 154 A similar conclusion: Schmitz (2004, 239–241), who, however, spoke of the “community” in generalized terms.
- 155 Gagarin (2008, 89, 104). Diversity: *ibid.*, 9: “all this legislation was written within the larger context of the growth of communities during the archaic period, when many cities were exerting control over larger territories and larger and more diverse populations and were experiencing steady economic growth,” 86, passing over the question of the kinship community. A “single political entity”: *ibid.*, 89.
- 156 The same situation is reflected by observations of Hölkeskamp (2005, 290) that Solon’s laws “do not address the main problem, and that is the division of landed property. They do not constitute a radical attempt to change the fundamental pattern or traditional practices of passing on property. In the strict sense, they only cover cases which are *not* ‘the rule’ – whereas the rule itself remains implicit, unwritten or, if you want, ‘uncodified.’ In this society, it is simply not the rule that a man dies without leaving a male issue. And it is only in this exceptional case that rules of succession and regulations concerning heiresses become necessary. In other words, Solon’s laws on inheritance can be characterized as complementary, or rather subsidiary to the ‘rule’ (which is as such and by itself not subject of ‘legislation’) – or isolated, admittedly large islands in the sea of traditional practices.” Solon’s laws certainly existed in parallel with, and had no intention of becoming substitutes for, the oral customs of the Athenian kinship community. However, a man dying without leaving a male issue was not an exceptional case in Solon’s Athens, just like it is not an exceptional case today. The innovation of Solon’s laws was that he expanded the succession, through adoption and marriage, from members of the same *oikos* to members of the entire kinship community, thus offering the community as a whole a better chance of survival: see chapter 1.
- 157 On the continuing existence of oral agreements, paralleling written contracts, which only emerged in the early fourth century: Calhoun (1919, 177–180); Thomas (1989, 40–41, 1995, 62–64).
- 158 Lipsius (1905–15, 240) (with n. 9)–241; Calhoun (1919, 178); Gagarin (2008, 112, 114). Cf. MacDowell (1963, 101): witnesses were not required to give evidence in

- writing until the early fourth century; Thomas (1989, 40–41) (see preceding note); and M. Gagarin, in *Symposion 2007* (2008), 83: *dikai* were not written down until at least the fourth century. The common opinion, based on a reference in [Dem.] 40.33, has been that evidence in cases of homicide was always given orally on the Areopagus: MacDowell (1963, 101). This is not surprising since the Areopagus Council dealt with cases of homicide of the *astoi*, and the *politai* “by decree”: for that Council, see chapter 1.
- 159 E.g., Glotz (1904, 374); Harrison (1971, 9); Thür (1990, 144); Phillips (2008, 76, 238). MacDowell (1963, 134–135) believed that two texts show that *graphai* could be brought in cases of homicide. One of them, Dem. 23.80, refers to a person who had been accused of homicide, and who, as a result, was forbidden to enter the holy places and the Agora, to touch holy water, and so forth (see also Dem. 20.158), and if he broke these restrictions, he could be prosecuted by a *graphe*; the punishment was death. However, the use of *graphai* in cases such as this one was justified because they concerned the well-being of the community as a whole and had nothing to do with a homicide per se. The other text, Poll. 8.40, lists homicide among offences for which *graphai* might be brought (γραφαι δὲ φόνου καὶ τραύματος ἐκ προνοίας, καὶ πυρκαϊῆς καὶ φαρμάκων καὶ μοιχείας καὶ ὕβρεως κτλ.). But as a very late source, this text evidently made no difference between cases of homicide and other offences, such as *moicheia* (see appendix 2) and outrage (*hybris*), which were indeed punished via *graphai*. In sum, there does not seem to be solid grounds to think that homicides were prosecuted by *graphai* in the late archaic and classical periods; but. cf. Hansen (1976, 108–112).
- 160 Gagarin (2008, 236). Engytic marriages continued as oral arrangements long after written laws came into being: such marriages had no written contracts that could be produced in the court: see chapter 1. Cf. Wolff (1944, 75); Patterson (1998, 108): “marriage itself was not defined by Athenian law, nor were individual marriages legally certified or registered.” For this reason, and because not every instance of *engye* resulted in marriage (see page 44, n. 10), we should rather not refer to *engye* as a “(legal) contract” (Biscardi 1999, 20) or a “formal legal agreement” (Harris 2006, 231), at least in marriage settings.
- 161 Bickerman (1975, 27); [Dem.] 59.16 and 52.
- 162 Gagarin (2008, 235–236). *P.Eleph.* 1 (ca. 311–310 B.C.).
- 163 Actual cohabitation as the only proof of engytic marriage: e.g., Isae. 6.14–15; Vernant (1988, 56).
- 164 *P.Eleph.* 1.8. Alcibiades: [And.] 4.13–14; Plut. *Alc.* 8.3–6 (see page 55, n. 140).
- 165 Blurring this line has produced a series of misconceptions, including the view that Solon gave citizenship to all the Athenians and founded Athenian democracy: e.g., Ostwald (2000b, 391); Tsigarida (2006, 126–135, 139).
- 166 Cf. Just (1989, 23): “As a ‘citizens’ club,’ whose members all shared in the governance of the state, the Athenian *polis* excluded women. But as a closed community bound together by ties of kinship and religion it most certainly included women, both in their own right and, within a largely bilateral inheritance system, as channels through which economic, religious, and most importantly political rights were transformed and transmitted between men,” 25.
- 167 E.g., Baslez (1984, 80). Cf. Sealey (1983, 112), who noted that this “law is surprising, because it offers citizenship to people who would later have become metics” and concluded (116) that “the Solonian law on immigration failed to distinguish between the citizen and the metic.”



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Part 3

The political community

The preceding chapter has already touched upon the fact that *politeia* alone did not encompass the possession of political rights or, using a modern concept, citizenship. Neither the *astoi* (members of the kinship community) nor the *politai* (members of the legal community) can be identified as citizens in ancient Athens, because both groups included people with no political rights – women, children, the elderly (if we believe Aristotle: see below), and the *atimoi*, or those who were punished by having restrictions imposed on their civic status. Nor did these communities completely overlap, since the community of *politai* was comprised not only of the *astoi*, who were *politai* “by nature,” i.e., by virtue of their origin, but also of non-kinsmen from among resident and visiting aliens, who received *politeia* by the grace of the People of Athens and, thus, became *politai* “by decree,” as we saw in chapter 3. Who, then, were the people with political rights in the Athens of the sixth century? Answering this question requires keeping in mind that the Greeks rationalized political rights differently from the way we do it today. For example, participating in and voting at a popular assembly did not constitute political rights in the system established by Solon in Athens. He even gave such rights to the thetes, who were counted as *politai*, although they had no access to political offices and, evidently, to the position of judges. Aristotle similarly distinguished “perfect *politai*,” as being people who had the right to serve as officials and judges, from *politai* in a broader sense (*Pol.* 3.1.3–4, 1275a.6–8 and 14–27; see pages 134 and 159, n. 48). The latter included children, the elderly, and the *atimoi*: although they all were deprived of the right to serve as officials and judges, or to make legislative proposals (e.g., *And.* 1.77; *Diod.* 18.18.1–3), the *atimoi* could sit on juries and vote in the popular assembly, which we would consider political rights. Athenian *astai*, who were *politides* “by nature,” had none of those rights. While *politeia* alone did not constitute a political status, politics played a role in the Greeks’ frequent decisions to modify the criteria for access to *politeia* “by nature,” and for allotting, and revoking, grants of *politeia* “by decree.” In such ways, male and female *politai* played an important role in politics even when they had no political rights, as we shall see in chapter 5. The next, and last, chapter will focus on Cleisthenes’s reform of the Athenian *politeia*, which has traditionally been interpreted as laying the foundation for the establishment of political equality, or *demokratia*, in Athens.



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5 *Politeia* and politics

In the absence of the idea and concept of “citizenship” in ancient Greece, the same word, *politeia*, was used as a definition for a social and legal system in the city in general and, from the fifth century, as an umbrella term for specific political regimes and an individual political status. One of the reasons for this situation was that the Greeks understood political rights differently from the way in which these rights are understood at present: they used *politeia* in a broader sense when applying this word to the status of women, children, elderly, and the *atimoi*, who had no political rights, and in a narrow sense for the people who occupied political offices, made legal proposals, and served as judges. Hence, Aristotle’s “perfect *polites*” was someone who had *politeia* together with political rights. Another reason why the word *politeia* had more than one meaning was the varied legal standings of the population of Athens and other cities. Unlike modern societies, in which citizens and non-citizens enjoy most of the same legal rights, the population of ancient Greek city-states consisted of a variety of social groups that embraced people with different legal rights and privileges, with only one of these groups being *politai*. The diverse understanding of the words *politeia* and *polites* was also a result of the fact that, although the status of a *polites* did not necessarily always imply the possession of political rights, Greek cities and rulers used that status to promote their political agendas. They modified the criteria for access to *politeia* “by nature” and granted, and revoked, *politeia* “by decree,” thus affecting both the size of the class of *politai* and its social content – all in accordance with the immediate political needs of specific political regimes. The use of *politeia* in the interests of different political powers will be the focus of this chapter.

1. The political use of *politeia*

Although the status of a *polites* alone had no immediate relevance to political rights (at least in the sense such rights were understood by ancient Greeks), *politai* “by decree” were actively engaged in what we broadly define as politics. Thus, Apollodorus, son of Pasio, who made it clear that as a *polites* “by decree” he had to generously repay this gift to the city of Athens, is known to have served as trierarch four times and as a member of the city council, as well as having performed liturgies, in particular performing the *choregia* of a boys’ choir at the

festival of the Dionysia. Pasio's associate, Phormio, who also received the *politeia* of Athens, probably performed *trierarchia* as well.¹ A whole group of *politai* "by decree" served as Athenian generals.² Although never a subject of a special examination, the social and political importance of such people should not be underestimated. It deserves our careful attention.

The political use of politeia "by decree"

While Athens and other Greek cities awarded grants of *politeia* for a variety of reasons, such grants were generally given in return for benefactions. Pasio (together with members of his family) and Phormio, like certain other people, received awards of *politeia* in return for their important banking activities and generous spending in the interests of Athens, and Euagoras was said to have obtained Athenian *politeia* because of his many benefactions to Athens. Awards of *politeia* typically required a verification of whether the recipient was indeed a benefactor of the Athenian people. When addressing a popular assembly, Theomnestus, brother-in-law to Apollodorus, exclaimed that in order to become a *polites* by the decision of the People of Athens, one had to undergo much toil and expense. At the same popular assembly, Apollodorus reminded the People that

there is an established law that prohibits the People from making anyone an Athenian who does not deserve to become a *polites* because of his good disposition (*andragathia*) to the Athenian people.³

In such cases, *andragathia* could mean many things. Most visibly, however, grants of *politeia* reflected urgent political and military needs. For example, one of the earliest documented individual grants of Athenian *politeia* "by decree" was awarded to Menon of Pharsalus for his aid during the Athenian siege of Eion in 477. Martin Ostwald singled out "two occasions, one toward the end of the Peloponnesian War and the other soon thereafter, on which metics are said to have been enticed by the promise of citizenship to fight alongside Athenian citizens." Both occasions, in fact, concerned promises of grants of *politeia* that did not necessarily entail the possession of political rights. The first happened when the Athenian fleet was blockaded at Mytilene and had to be rescued in 406. According to Diodorus (13.97.1), a group of local residents and "other aliens" (*ton allon xenon*) received *politeia* to ensure their support in the war. Although others, too, have interpreted this *politeia* as "citizenship," nothing implies that these metics and "other aliens" received *politeia* together with political rights and, consequently, enrollment in a deme.⁴ Xenophon, who described the same event without mentioning *politeia*, pointed out that it was not only metics but also slaves and "all who were of military age" who were pressed into fighting. According to him, in going to the rescue, the Athenians were "putting aboard all who were of military age, whether slave or free." Hellanicus provided a reference to the use of slaves in such situations when he said that the slaves who participated in the naval battle at Arginusae (later in 406) were to be freed by the Athenians and, "similar to

the Plataeans, inscribed as their fellow-*politai*.” Aristophanes also referred to that episode: the chorus in his *Frogs* reflected the annoyance of many Athenians who thought it disgraceful that “those who fought just once at sea should suddenly be Plataeans and masters instead of slaves.” We know that the Plataean *politai* were expressly forbidden from occupying political offices and priesthoods in Athens in 427. The “Plataean *politeia*” was an established formula, and other *politai* “by decree” similarly lacked access to Athenian political offices and priesthoods. The status of those who received Athenian *politeia* “by decree” in 406 was evidently the same. This information not only confirms that *politeia* alone did not secure political rights but also challenges the view that grants of *politeia* to slaves in military emergencies were only characteristic of tyrannies.⁵

The other such occasion mentioned by Ostwald was when “Thrasybulus rallied some nine hundred of [metics] to his side against the Thirty, promising them the right to pay equal taxes with other Athenians (*isoteleia*) and trying unsuccessfully to obtain citizen rights for them after his victory.” Others have also interpreted Thrasybulus’s proposal as a push to give “citizenship” to those who did not have it.⁶ Ancient authorities expressed different opinions on the nature of the grant in this case. According to Aristotle, what was promised was *politeia*, and those who received *politeia* on Thrasybulus’s motion, including Lysias, were soon deprived of it. Probably referring to the same episode, Xenophon asserted that Thrasybulus was promising *isoteleia*.⁷ Even if Aristotle and Xenophon were making references to the same event, their accounts were not necessarily mutually exclusive, because the right to pay equal taxes (*isoteleia*) could either be awarded as a separate privilege or it could be a part of grants of *politeia*, as shown in chapter 3. Lysias appeared to be an *isotelos* after his grant of *politeia* was revoked, which suggests that he occupied this status before receiving *politeia*.⁸

More evidence is available about Athenian awards of *politeia* because of a pressing military need. For example, at a later date, in 338, after Philip II of Macedon defeated the Athenians and Thebans at Chaeronea, the Athenians were in a panic expecting Philip to march on and besiege their city. Hyperides brought forward a proposal to grant *politeia* to some aliens (*xenoi*), which has been interpreted as a revolutionary proposal of the citizenship grant.⁹ But the threat soon receded, and the grant never materialized. It is possible, then, that the Athenians understood but still did not support Hyperides’s motives. We see similar evidence in later Athenian decrees that allotted *politeia* to individuals who had fought for Athens in various military conflicts.¹⁰ Military support was perceived as a form of benefaction, for which a grant of *politeia* was a customary reward. Likewise, although a work of fiction from a later period, Chariton’s *Callirhoe* (8.8.13–14) correctly reflected this traditional practice by describing how, on a proposal by Chaereas, all three hundred of his fellow-soldiers received *politeia* by a vote of the people of Syracuse. Still, the grant of *politeia* alone certainly did not mean that those people could serve as political officials and judges in Syracuse.

The Hellenistic period provides further examples of grants of *politeia* as rewards for military help, including grants by Rhodes to the “most courageous slaves,” who had participated in the defense of Rhodes during the siege by

Demetrius Poliorcetes in 305–304 and received freedom and *politeia* (which they had probably been promised as an incentive to join the defense); by Iasus to an unknown naval commander who helped the city in a military conflict; by Smyrna to the general Timon and his soldiers; by the Ephesians (at the price of six minae) to some of the Prieneans who had defended the fortress of Charax; by Pharsalus in Thessaly to a big group of individuals, interpreted as the measure adopted “in order to remedy the shortage of citizen-soldiers”; by the city of Phanagorea, on the northern limits of Greek civilization, which rewarded its mercenaries; and by other cities elsewhere.¹¹ Grants of *politeia* also served as effective means of promoting the political agendas of entire states and individual politicians. According to Plutarch, having overthrown the *geomoroi* with the help of the Megarian captives, the people of Samos made *politai* of the Megarians “who so desired,” thus enlarging the body of the *politai* by those who had a vested interest in this political regime since their status depended on it. The Samians likewise granted *politeia* to some of their slaves for political reasons.¹² Not everybody was so generous with grants of *politeia*, however. Diodorus (10.26) tells us that although *politai* in Ionian cities needed broader social support in their struggle against the Persians, they were so jealous of their status that they “freed the slaves, preferring rather to share freedom with their servants than *politeia* with the free.” The *politai* “by nature” in this case were unwilling to grant *politeia* “by decree” to non-*astoi*, i.e., foreigners and resident aliens, even though this step would have strengthened their defense against Persia.

Several more examples of grants of *politeia* being used for political interests come from Sicily. In one case, having overthrown the tyranny of Thrasybulus (466–465), the Syracusans gave *politeia* to aliens and hired laborers in order to enlist them against those who wanted to restore the tyrant (Arist. *Pol.* 5.2.11, 1303a.39–1303b.2). The “colonists,” whom Hiero had settled in Catana and upon whom Thrasybulus called in his support (Diod. 11.67.7; cf. 11.49.1–2 and 11.76.3), were probably “new *politai*,” since the right to (own and) use land, or the right of *enktesis*, was included in the grant of *politeia*, as was typical for Athenian awards of *politeia* well into the Hellenistic period (see chapter 3 and below). Likewise, when Gelon held the tyranny in Syracuse, he gave *politeia* to ten thousand mercenaries and many other people, whom he resettled from Camarina, Gela, and other Sicilian cities.¹³ These people were deprived of their rights once the tyranny of Thrasybulus was overthrown (see appendix 3). At the same time, other Sicilian cities expelled numerous mercenaries whom local tyrants had established in those cities. According to Diodorus (11.76.5), Catana, Rhegium, and many other cities “restored the cities to the original *politai* (*tois archaiois politais*),” “drove out alien *politeiai*,” and divided all land among all the *politai*, whereas the mercenaries were allowed to take their own goods with them and settle (*katoikein*) in Messenia. This evidence illustrates that the status of a *polites* was inherently connected with the right to possess immovable property. The “original *politai*” were evidently *politai* “by nature,” who had *politeia* by virtue of their birth as members of kinship communities. Everybody else in these cities was stripped of *politeia*, in what was probably a *diapsephismos*, or a scrutiny that verified that only *gnesioi*

had the right to *politeia*, by virtue of their birth. We see a whole series of such *diapsephismoi* taking place as part of important political changes in Athens in the period from the sixth to the fourth century (see below).

Such evidence shows that grants of *politeia* were a characteristic tool of Greek politics, and that different political regimes used such grants in a similar fashion. Thus, in 410, the Athenian Conon, acting together with six hundred Messenian mercenaries and local democrats, attacked the pro-Spartan supporters in Corcyra, arresting some, killing others, and driving the rest into exile. Then he set slaves free and gave *politeia* to local aliens – as a precaution against the great number and influence of exiles, says Diodorus (13.48.7). In 405–404, having made peace with the Carthaginians, Dionysius I not only gave *politeia* to aliens (*xenoi*) and freed slaves, whom he called *neopolitai*, but he also provided them with land, thereby enlarging political and military support for his rule (Diod. 14.7.1, 4). After the Syracusans revolted against him in 404, they promised *politeia* to any of the mercenaries who would come over to their side (Diod. 14.18.3). In a similar fashion, once the people of Syracuse revolted against the regime of Dion, they tried to pull his mercenaries over to their side with promises of an “equal share (*isomoiria*) in *politeia*” (Plut. *Dion* 38.4). The tyrant Euphron in Sicily likewise enlarged his social support by liberating slaves and giving them *politeia* in 366. And when Pausanias of Sparta developed certain designs of his own and was said to be intriguing with the helots, he promised them freedom and *politeia* in return for their support. Conversely, the so-called Law against tyranny and oligarchy, issued by Ilium in the early third century, offered *politeia* to the tyrannicide, even if he was a slave.¹⁴

Diodorus also pointedly illustrated the connection between the possession of *politeia* and the right to own land in the city, with reference to the conflict between Eggesta and Lilybaeum over a certain territory in 454. Both cities, said Diodorus, enrolled *politai* through the procedure of a *politographia*, and redistributed land (11.86.3). The enrollment of new *politai*, which increased the military might of the two cities, was accompanied by allotting land to those people, thus resulting in a redistribution of land. Diodorus’s words (12.9.1–2) that the city of Sybaris in Sicily enjoyed a rapid growth “because of the fertility of the land,” and that by “granting *politeia* to many” the people of Sybaris exceeded all other Italians in the size of population, leave little doubt that these newcomers received the *politeia* of Sybaris together with land. In a similar fashion, Timoleon “turned freedmen into Syracusans”; that is, he gave them the *politeia* of Syracuse and offered land to those who agreed to become *politai* in Syracuse in the 330s. According to Diodorus, “he made proclamation in Greece that the Syracusans would give land and houses (*khora kai oikias*) to those who wished to come and share in their *politeia* (*tois boulomenois tes en Syracoussais politeias*), and many Greeks came to receive their allotments (*pros ten klerouchian*). Ultimately, forty thousand settlers (*oiketores*) were assigned to vacant land of Syracuse and ten thousand to that of Agyrium, because of its extent and quality.”¹⁵ Timoleon’s grants of *politeia* have been explained as being in the general interests of the “Greek fatherland,” as the need to fight against Carthage, and for the purpose of “colonization.”¹⁶ In this and

other such cases, however, resident or foreign aliens received the right of *enktesis*, i.e., the right to have immovable property, by virtue of becoming *politai*, as was seen in the previous chapter.

Politically motivated grants of *politeia* together with land plots have been documented elsewhere as well. After the death of the Macedonian king Ptolemy Ceraunos in 279 B.C., his mother Eurydice gave freedom to the city of Cassandria. A local citizen, Apollodorus, who posed as the champion of democracy (and who would eventually establish his own tyranny), introduced several measures in connection with the liberation of the city. According to Polyaeus, Apollodorus had the soldiers of the local garrison inscribed as *politai* and had plots of land distributed to them, "so that they would remain the guardians of freedom." One has to agree with Philippe Gauthier's interpretation of this episode as Apollodorus's establishing his own "clientele," and a force useful for setting up a tyranny.¹⁷ In another, much more famous case from ca. 215 B.C., Philip V requested that the city of Larissa grant its *politeia* to resident aliens. His message to the people of Larissa included the following words:

It is a fine thing that as many as possible may share in the *politeia*, so that the city is strong and the countryside (*chora*) is not shamefully deserted, as it is at present. This I think no one of you would deny; and it is possible to observe others who similarly enroll *politai*, including also the Romans, who admit to *politeia* even slaves when they manumit them, and grant them a share in their positions; and in this way they have not only enlarged their own city, but have also sent out colonies to nearly seventy places.¹⁸

According to John K. Davies, the first of Philip V's two letters to Larissa (from 217 and 215 B.C., respectively) "instructed the city to enfranchise its *katoikoi* 'so that the land will be more fully cultivated' or 'so that . . . the land will not lie shamefully fallow as now.' What is crucial is that between 217 and 215 opposition in Larissa to the measure had been strong enough to have it annulled till Philip's fierce second letter had it reinstated. The problem is to understand exactly what was being opposed." Davies's explanation of the nature of this problem (1984, 268–269) has been that "since their enfranchisement was envisaged as allowing a fuller cultivation of land we must assume that in some way not specified they were to receive vacant land, and that opposition came from those who preferred the existing pattern of landownership." Others have followed along the same path, including Habicht; Salviat and Vatin, who believed that "Philip's obvious intention was to procure a better cultivation of land"; Baslez, who saw Philip V's request as reflecting "the gravity of the devastation caused by the wars"; and Helly, for whom "the motifs behind the decision of Philip were of the political, strategic and economic order: the preparation of a war against the Romans, the weakness of the body of free citizens (*oliganthropia* and *leipsandria*), and, finally, a very low level of agricultural cultivation."¹⁹

Raoul Lonis's attempt (1992a, 255) to connect Philip's request with the "demographic crisis" in Larissa cannot be endorsed because the recipients of *politeia*

from Larissa were, for the most part, local inhabitants. Philip's request, in fact, appears to have been concerned with changing the status of people who already lived in the strategically important Thessalian Larissa, not increasing their numbers. For the same reason, a grant of *politeia* implied not just "a fuller cultivation of land," to use Davies's expression, but the right of *politai* to possess immovable property within the territory of the city, including land, which they could then cultivate for their own profit.²⁰ The evidence about massive grants of *politeia*, which were accompanied by grants of land plots (*kleroi*) in the Hellenistic period, leads to the same conclusion. One such case was the grant of *politeia* by the city of Pharsalus, also in Thessaly, to one hundred and seventy-six people, each of whom also received sixty plethra of land. Jean-Claude Decourt interpreted this situation as a politography accompanied by the distribution of land in the form of a "cadastration."²¹ In another case, the people of Smyrna granted *politeia* to the dwellers in Palaimagnesia and Seleucid military colonists:

[I]t was decided that they be *politai* and enjoy the same that the rest of the *politai* enjoy, and that the two land allotments (*kleroi*) – which was conceded to them by the divine Antiochus Soter and of which Alexander had written – will be tithe-free for them. And if the land held by those who were previously *katoikoi* in Magnesia borders on [the territory of] our city, let them have three land allotments for free and let those who currently have immunity keep it. And let those of them who have no land allotments be given an equestrian allotment (*kleros hippikos*) for free from those adjacent to the place.²²

A similar treatment was extended to immigrants from the mother city, like the Theraeans, who received *politeia* and land plots in Cyrene,²³ and to people from elsewhere who arrived in Cyrene upon the promise of receiving land. As Herodotus (4.159.2) said, "the Cyreneans invited them promising a distribution of land" (*epi ges anadasmō*). The situation was the same in Thessaly, where Aleuas established *politeia* by distributing land plots among equestrians and hoplites,²⁴ and in Athens, where Plataeans received both *politeia* and land once their city had been destroyed in the early 420s (see appendix 3). It is worth mentioning a suggestion by Moshe Amit that after Philip II restored the city of the Plataeans, they lost this privilege and, therefore, had to obtain the right of *enktesis* from Athens as a special grant.²⁵

Evidence from Athens reveals a similar correlation between the individual's status as a *polites* and his right to possess immovable property within the territory of the granting city. Several thousand people lost *politeia* in Athens as a result of the property census introduced by Antipater, who used this to deny the most radical group of the Athenian population an opportunity for political participation in 322. However, many of these people were then settled in Thrace, on land provided to them by Antipater (Diod. 18.18.5). In this fashion, he raised their status back to that of *politai* (though not of Athens) and, for this reason, could count on their support. Diodorus's words also confirm that an individual's right to have immovable property was a display of his status as a *polites*.²⁶ The famous

treaty of sympolity between Magnesia and Pidasa also included a special clause confirming the possession of land by the Pidaseans.²⁷ The grant of *politeia* by Miletus to the Cretans, who may have distinguished themselves by protecting the city as mercenaries, was similarly accompanied by a grant of land that could not be alienated for twenty years.²⁸ While the right to possess and cultivate land might have been a major motivation for people to come and settle down as new *politai*, the primary reason for extending grants of *politeia* in many such cases was political. Timoleon used this to broaden social support for the political regime he had just established in Syracuse. His reforms, quite expectedly, included a revision of local laws, which reflected a change in *politeia*.²⁹ Likewise, the “better cultivation of land” was just an excuse for Philip V to increase the number of *politai* in Larissa. His efforts to have the *politeia* of that city granted to numerous local residents led to many new *politai* becoming his supporters. At base, such evidence illustrates the direct link between an individual’s status as a *polites* and his right to have a share in the immovable property of the city on the one hand, and between grants of *politeia* and the political life of Greek cities on the other.

In another famous episode in which a grant of *politeia* was used for political purposes, Mithridates VI Eupator tried to retain control of the Greek cities of Asia Minor by not only proclaiming them free and cancelling debts, but also by giving *politeia* to metics in each of these cities and freeing the slaves. According to Appian, he “did this hoping (as indeed it turned out) that debtors, metics, and slaves would consider their new privileges secure only under the rule of Mithridates, and would therefore be well disposed toward him.” The cities responded to Mithridates’s activities with the same coin. We know, for example, that Ephesus offered a massive grant of *politeia* to various social groups, as a measure of strengthening the defense of the city. The Ephesians issued a decree that included the following words:

it was decreed by the people, on the motion of the *proedroi* and of the secretary of the city council Asclepiades, son of Asclepiades son of Eubulides, introduced by the generals. Since the greatest dangers have befallen the sanctuary of Artemis and the city and all the *politai* and those who reside in the city and the countryside, and it is necessary that all unanimously resist the danger, the people decided etc. . . . let the *isoteloι* and *paroikoi* and temple slaves and freedmen and aliens, whoever takes the arms and registers with officers, be *politai* on equal and similar terms.³⁰

Mithridates’s grant of *politeia* to metics in the course of his war against Rome and her supporters resembles the above-mentioned Athenian grant of *politeia* to metics and “other foreigners” during the military crisis of 406 (Diod. 13.97.1). Likewise, the grant of *politeia* by Ephesus to those eager to take arms for the protection of the city against Mithridates in the early first century echoes similar declarations by Thrasybulus against the Thirty, and by the Athenians against Philip II in 338. The requests by Seleucus IV to Seleuceia in Pieria, and by Philip V to Larissa, mirror the order by the Spartans that the people of Megara give their *politeia*

to Hermo, the ship pilot who served with Lysander and captured two hundred war galleys during the Athenian defeat near Aegospotami.³¹ Such practices reflected a well-established trend of enlarging the number of supporters by introducing new *politai* and, in this way, securing the good will of the locals and/or undermining the possibility of their disobedience. As part of their competition, rival political factions used awards and withdrawals of *politeia* in the same fashion to promote their interests.

Massive grants of *politeia* were also awarded because of the “scarcity of people,” *oliganthropia* or *oligandria*. What was meant was not a scarcity of human beings but of the *astoi*, who were *politai* “by nature.”³² The problem of the “scarcity of people” could be solved in more than one fashion. Late in the fifth century, the Athenians allegedly addressed the issue of the “shortage of people” by decreeing that not only would those born from a betrothed *aste* be acknowledged as legitimate children, but those born to two *astoi* who lived together outside of an enkyetic marriage would also be considered legitimate. According to Diogenes Laertius, one of the people who then lived with two wives was Socrates.³³ However, a much more traditional way of solving this problem was to offer a massive grant of *politeia* “by decree,” as seen in the above-mentioned grant of *politeia* to slaves on Samos.³⁴ Theopompus described a similar situation when he said that because so many Spartans had been killed in battles against the Messenians, some of the helots were made to mount their beds and, then, were turned into *politai*. Examining the problems of the Spartan *homoioi*, whose numbers had been reduced from ten thousand at some time in the past to one thousand in the fourth century, Aristotle noted that they did not suffer from *oliganthropia* in earlier times, when they “gave *politeia* [to aliens].”³⁵ Similarly responding to the “scarcity of men” (*oligandria*), the Argives gave *politeia* to the best of their perieci, according to Plutarch (*Mul. virt.* 245f2–6). Hence, many such grants were offered to local residents, who changed their status but not their location. Foreigners, too, could be invited to become *politai*. Andocides (1.149) reminded the Athenians of how they had entertained the idea of giving *politeia* to the Thessalians and Andrians due to the “scarcity of men” (*di’ aporian andron*). It looks as if, in trying to solve a similar problem, the people of Sybaris went to the extreme: according to Diodorus, they caused an “overabundance of people” (*polyanthropia*) by creating too many new *politai*.³⁶

This evidence further shows the political purpose of grants of *politeia*, whose recipients were often local residents. In one such case, describing reforms introduced by Agis IV and Cleomenes III in Sparta, Plutarch (*Agis* 8.3) observed that Agis wanted to enlarge the Spartan community (*politeuma*), so that the number of the Spartans would be “filled up (*anaplerothēnai*) from local residents and aliens (*perioikon kai xenon*), who had received the rearing of freemen and were, besides, of vigorous bodies and in prime of life; and that these should be formed into fifteen public messes by four hundreds and two hundreds, and should practice the mode of life (*diaitia*) which the ancestors had followed.” According to Plutarch (*Cleom.* 10.11), Cleomenes introduced the provision that “aliens (*xenoi*) should be examined and evaluated, in order that the strongest of them might be

made Spartans and help to preserve the state (*ten polin*) of their own.” Plutarch’s use of an ethnic instead of the word *politeia* (for this practice, see chapter 3) suggests that he relied on an early source. In this way, continued Plutarch (*Cleom.* 11.3), “by enlarging (*anaplerosas*) the *politeuma* with the most promising of the periecs, Cleomenes created a body of two thousand hoplites.” Although the traditional interpretation of the word *anaplerosis* and its cognates, in this and other such cases, has been a replenishment of the citizen body,³⁷ this word appears to have concerned grants of *politeia* that did not necessarily bring political rights to their recipients. As part of his creation of new *politai*, Cleomenes also conducted a redistribution of land. Modern studies have discussed his redistribution of land together with his replenishment of the list of *politai*, because this is how Plutarch mentions them.³⁸ However, the evidence examined above shows that adding new *politai* and offering land plots were connected in a much more intricate fashion than has been assumed. The redistribution of land by Cleomenes was not merely aimed at increasing the “number of citizens eligible for the army”; in fact, the word *anaplerosis* and its cognates actually pertained to the creation of new *politai*, who, accordingly, received the right to own land. Hence, massive grants of *politeia* had to be accompanied by a redistribution of land. The measure required a certain ideological backing: either Cleomenes’s reforms replicated the famed arrangement of Sparta by Lycurgus, supporting Cleomenes’s claim that he was restoring the “ancestral constitution” (*patrios politeia*) or, the other way around, such steps, including the redistribution of land, were retrospectively ascribed to Lycurgus as a justification for the new economic and social reorganization.³⁹

The policy of granting or withholding *politeia* for political reasons also made up a part of the relations between Greek cities and Leagues, including the question of the relationship between the *politeiai* of the Leagues and their individual member cities.⁴⁰ Thus, the text of the *Hellenica Oxyrhynchia* refers to the Boeotian Federation as having one *politeia*; and, speaking in front of the Spartans and their allies in 383, Cleigenes of Acanthus accused the Olynthians of having established control over cities in Chalcis by giving them their *politeia*.⁴¹ Likewise, at the Theban repopulation of Messene in 369–368, according to Diodorus’s account (15.66.1), Epameinondas “sought out the remnants of the Messenians, and registering as *politai* any other who so wished he founded Messene again, making it a populous city.” Later, having brought the Spartans into the Achaean League, Philopoemen resettled all those who had been made *politai* of Sparta “by the tyrants,” as metics in Achaea (Plut. *Philop.* 16.5). He thus returned them to their original status and, in this way, undermined the possibility of restoring an anti-Achaean regime in Sparta. A little later, after Aratus captured the city of Mantinea, he strengthened Achaean control over it not only by establishing a garrison in that city, but also by giving *politeia* to local metics (Plut. *Arat.* 36.3). As the people whose status in the city depended on decisions by the Achaeans, these new *politai* would provide social support for Achaean control over Mantinea. This information adds to the evidence that grants of *politeia* played an important role in the political life of Athens and other ancient Greek cities, even if such grants did not necessarily entail the acquisition of political rights.

The political use of politeia “by nature”

The other way *politeia* could be obtained was “by nature,” or by virtue of an individual’s birth as an *astos* or an *aste*, i.e., a member of the kinship community. Solon’s reform homogenized the Athenian kinship community by providing all *astoi* with equal social and legal status, or *politeia*, by virtue of their status at birth (see chapters 3 and 4). However, in certain situations, access to *politeia* “by nature” was either restricted to only some of the *astoi* or was broadened to make it available not only to the *astoi* but to other social groups as well. Illustrating the former situation, the “revolution” of 411 limited the number of *politai* to the Five Thousand, i.e., those who had enough personal wealth to provide themselves with hoplite armor; the “revolution” of 404–403 further narrowed down the number of *politai* to the Three Thousand.⁴² For the purpose of this investigation, it is irrelevant whether the Five Thousand and the Three Thousand were “full citizens” (with “active citizenship”) or only had access to the assembly and the courts without the right to occupy city offices.⁴³ Both groups were defined as the only people who held the status of *politai* in the city during those periods, respectively, whether they had the right of access to offices or not. Likewise, the thetes in Solonian Athens, and, according to Aristotle (*Pol.* 3.1.4, 1275a.14–27), children and the *atimoi* in later times, were *politai* without political rights. What matters is that both in 411 and 404–403, many *astoi* lost their *politeia* “by nature” through additionally imposed restrictions. Theramenes referred to that situation when he protested his innocence in ever having deprived respectable Athenians (*kalous te kagathous*) of *politeia* (Xen. *Hellen.* 2.3.49). Lysias, too, had it in mind when he spoke of many Athenians as having been “expelled from the *polis*” by the Thirty, implying that these people lost their Athenian *politeia*, to which they were entitled by virtue of their birth. Since they no longer had the protection of the status of *politai* (see chapter 3), many of them, continued Lysias, moved to the countryside for security reasons (Lys. 26.2, 31.8).

Lysias’s words help us to better understand what happened in Athens in 411 and 404–403: the loss of *politeia* entailed the loss of a privileged status, including the legal protections of personal inviolability and property, and the right of *enktesis*, which were discussed in chapter 3. The former meant that such people no longer enjoyed protection against slander, torture, and execution without trial. Hence, the Four Hundred and, on a much larger scale, the Thirty endorsed killings without trial.⁴⁴ The justification in both cases was that those who were put to death, and/or were subjected to other forms of punishment, were no longer counted among the *politai*. As Critias explained to the oligarchic city council in 404, according to the “new laws” adopted by the Thirty, “while no one of those who are on the roll of the Three Thousand may be put to death without your vote, the Thirty shall have power of life and death over those outside the roll” (Xen. *Hellen.* 2.3.51). Depriving these people of *politeia* also meant that they lost the right of *enktesis*, and, therefore, their immovable property was confiscated (Xen. *Hellen.* 2.4.1). Atrocities of the Four Hundred and the Thirty have traditionally been presented as violations of Athenian laws and, therefore, as illegal.⁴⁵ However, the two regimes

were able to claim to be acting within the laws because their actions were based on redefining the basis of *politeia* “by nature” and, accordingly, modifying the criterion of selecting those people who were legally entitled to the inviolability of their persons and property. Similar ideas of limiting access to *politeia* to only some of the *astoi* were being circulated even after the regime of the Thirty was overthrown. In particular, Lysias vehemently opposed the proposal to impose a property census on access to *politeia* for the *astoi*, arguing, among other things, that this would undermine the Athenian military capability.⁴⁶ Likewise, several decades later, a certain Antiphon – who was aggrieved at having been deprived of *politeia* (surely as a result of the scrutiny of 346–345; see below) and allegedly offered his services to Philip II, promising to set the Athenian dockyards on fire – was arrested, tortured, and put to death without a trial. As Antiphon was not a *polites* any longer, he had no protection from summary arrest, torture, and execution without appeal. Therefore, when the orator Dinarchus used the episode of Antiphon’s torture and execution against his enemy Demosthenes, the accusations carried little weight in the eyes of the Athenians.⁴⁷

This policy of restricting access to *politeia* “by nature” survived into later Athenian history. Once the Athenians and some other Greeks failed to shake off the Macedonian yoke after the death of Alexander the Great in 323 B.C., Antipater gained control over Athens and, among various measures, narrowed access to *politeia* by establishing restrictions in the form of a property qualification of 2000 drachmas. This has been interpreted as the hoplite census.⁴⁸ The corresponding evidence comes from the following texts of Diodorus and Plutarch:

(Diod. 18.18.4–5) he dealt humanely with them and permitted them to retain their city and the possessions and everything else. But he changed the *politeia* from the democracy, ordering that the *politeuma* should be based on census (*apo timeseos*), and that those possessing more than two thousand drachmas should be in control of the *politeuma* and of the elections. He removed from *politeia* (*apelase tes politeias*) all who possessed less than this amount on the ground that they were disturbers of peace and warmongers, offering to those who wished it a place of settlement in Thrace. These men, more than twelve thousand in number, were removed from their fatherland. But those who possessed the stated amount, being about nine thousand, were designated as masters of both city and territory and were *politai* according to the laws of Solon (*kata tous Solonos nomous epoliteuonto*). All were permitted to keep their property uncurtailed. They were, however, forced to receive a garrison.

(Plut. *Phoc.* 27.5) Antipater replied that the Athenians could be his friends and allies on condition that they delivered up Demosthenes and Hyperides, reverted to their earlier *politeia* on the basis of census (*politeuomenois de ten patrion apo timematos politeian*), received a garrison into Munychia, and, in addition, paid the costs of the war and a fine.

This evidence again raises the question that has been so hotly debated with reference to the oligarchic regimes in 411 and 404–403: did these people have access to offices, or did they only have the right to participate in the courts and the assembly? We cannot establish the exact meaning of Diodorus's words that the Athenians were then *politai* according to the laws of Solon (*kata tous Solonos nomous epoliteuonto*), both because the word *politeia* emerged only after Solon's reforms and because it had evolved by the late fourth century to also mean a specific political regime. The broadly social and narrow political meanings of *politeia* co-existed and were retrospectively projected into the past. When understood broadly, it was possible to be a *polites* without having political rights. This was the original meaning of Solon's *politeia* (using the later term in retrospect): although acknowledged as *politai*, his thetes and *zeugitae* had no political rights. However, once the word *politeia* began to be used to define specific political regimes and, accordingly, to designate an individual's political status, a loss of political rights also meant a loss of *politeia*. This is what we see in the political life of Athens in the late fifth and fourth centuries. For example, after Phocion's death (317), Cassander further reorganized the *politeia* of Athens, with the help of Demetrius of Phalerum, so that in the words of Diodorus, "the *politeuma* was to be in the hands of those with the census (*apo timesion*) of at least ten minae," or a thousand drachmas.⁴⁹ Wealth as a qualifier, therefore, played a different role in the time of Solon, when a lack of political rights did not keep *astoi* from enjoying the social and legal privileges of *politeia*, and in the classical period, when the loss of political rights meant the loss of *politeia*. The latter situation emerged as a result of Cleisthenes's political reorganization of Athens, which created a fusion of the status of a *polites* with the possession of political rights (see next chapter).

However, while political interests led to imposing restrictions on access to *politeia* "by nature" during certain periods, it also occasionally broadened that access by admitting metics and aliens, who had no right to *politeia* by virtue of their birth. This situation, which existed in Athens and other places in ancient Greece, further shows a close connection between *politeia* and politics. Aristotle revealed this situation on several occasions, when he observed that

(*Pol.* 3.3.4–5, 1278a.28–29) in some democracies the son of a *politis* is a *polites*, and many cities hold it the same way with respect to bastards (*tous nothous*),

(*Pol.* 6.2.9, 1319b.7–11) with a view of setting up this kind of democracy and making the people powerful their leaders usually acquire as many supporters as possible and admit to *politeia* not only the legitimate children (*tous gneious*) but also bastards (*tous nothous*) and those of whose parents only one is a *polites* (*tous ex hopoteroun politou*), I mean either the father or the mother. For all this element is especially congenial to this kind of democracy, and

(*Oecon.* 2.2.3, 1346b.27–29) while, according to the law, the right of *politeia* was previously confined to those whose parents were both *astoi*, lack of

funds induced [the people of Byzantium] to offer *politeia* to him whose only one parent was an *astos* on payment of the sum of thirty *minae*.

Other powers, too, resorted to such steps for political reasons. For example, Ptolemy I's "constitution" for Cyrene stated that children who had only one parent belonging to the Cyreneans were entitled to the *politeia* of that city:

Those will be *politai* – the men [born from] a Cyrenean father and a Libyan woman, and those [born from] Libyan women [who live] within [the pass of] Catabathmos and [the fort of] Automalax [i.e., Cyrenaica's territorial borders with Egypt in the east and Syrtica in the west, respectively], and those [born from] the settlers from the cities on the other side of the Desert, those whom the Cyreneans sent out as colonists and whoever were established by Ptolemy and whoever were accepted into the *politeuma*, as follows from these laws, etc.

Jacob A. O. Larsen interpreted this text in the sense that "a man born of Libyan mother and a Cyrenean father was admitted to citizenship," while François Chamoux saw this measure as a "massive introduction of the locals into the *politeuma*" of Cyrene.⁵⁰ The latter interpretation reflects the situation noted above, when a grant of *politeia*, whether "by decree" or through modifying the qualifications for *politeia* "by nature," led to a change in the status of local residents. A less famous but still quite well-known inscription from Thasos contains the text of the decree awarding the *politeia* of that city (the reference is made to its ethnic) to children whose only Thasian parent was the mother. Likewise, a massive grant of *politeia* by Phalanna in Thessaly also gave *politeia* to those who were born "of a Phalannian mother" – this is how this phrase has been interpreted by Dittenberger. Conversely, Demosthenes mentioned the people of Oreus, who refused to give their *politeia* to a certain Charidemus because only his mother was a *politiss* of that city, and, therefore, "he himself contributed one-half of the birth qualification." Therefore, continued Demosthenes, he was still counted among bastards (*eis tous nothous*).⁵¹

This evidence has been interpreted as concerning the status of "citizens." Among others, Peter J. Rhodes has explicated the Athenian material from the late fifth century in the sense that "when democracies are short of 'lawful' citizens they adopt generous criteria for citizenship, but as they come to have an ample supply of common people they adopt increasingly strict criteria."⁵² However, such texts not only mention *politeia* that did not necessarily carry political rights, but also show that non-*gnesioi* could be counted as *politai* under different political regimes. For example, the "constitutional arrangement" in Cyrene was established by King Ptolemy I. Pisistratus enlarged his social support by similarly acknowledging some non-*gnesioi* as *politai* "by nature" in Athens. Aristotle (*Ath. Pol.* 13.5) refers to those who were counted among *politai* under the Pisistratids as being of "impure birth," i.e., those whose parents included only one or had neither belonging to the *astoi*. Therefore, after the Pisistratid tyranny was overthrown, Athens held a scrutiny that restored *politeia* "by nature" only to *gnesioi*, or, in other words, put the system established by Solon back in place in 510 (see below).

The same attitude was displayed in the turbulent time that followed the fall of the Thirty, when different proposals were being made about the principles on which the Athenian *politeia* was to be established. Lysias was advocating that all the *astoi* should be *politai* by virtue of their birth, i.e., regardless of their wealth. When Lysias himself became a *polites* “by decree” after the fall of the Thirty, he allegedly declared that he could not be deprived of his *politeia* for reasons of wealth (*ousia*) or birth (*genei*). His words reflected the situation in which *politai* “by nature” could be deprived of *politeia* either because of additional restrictions (such as a property census) or because of a scrutiny that verified that *politeia* belonged only to the *gnesioi* by the right of birth: those who were not born in engyetic marriage would lose their status. Since he had received *politeia* “by decree,” Lysias was not afraid of being deprived of it for either reason. He was correct: he soon lost his Athenian *politeia* on procedural grounds.⁵³

Other Greek cities, too, occasionally granted the status of *politai* “by nature” to non-*gnesioi* because of pressing needs, and then deprived such people of this right once that need was over. Aristotle reinforced the vision that who was counted as a *polites* depended on the situation in the city, and that one person could be formally acknowledged as a *polites* “by nature” in one place and not be seen so in another:

inasmuch as such persons [i.e., bastards: *nothoi*] are made *politai* owing to a lack of *politai* from the *gnesioi* (*di' endeian ton gnesion politon*) – for legislation of this kind is resorted to because of underpopulation (*dia oliganthropian*) – when a state becomes well off for numbers it gradually divests itself first of the sons of a slave father or mother, then of those whose mothers only [were *politai*]. Finally, they make *politai* (*politai poiousoin*) only those whose both parents are *astoi* (*ex amphoin aston*).⁵⁴

Aristotle characteristically did not connect those restrictions with any specific political regime in the city, reflecting the fact that different political regimes practiced the same policy of allotting *politeia* “by nature” to non-*gnesioi* when needed, and then taking it away from them. This is what “under-” and “overpopulation” meant. As noted above, since these terms did not refer to the number of local inhabitants as a whole but to *politai*, the problem of “underpopulation” was often solved by giving *politeia* to people who were already local residents. Aristotle’s words, therefore, did not mean that “citizenship” and its “norms” differed from place to place,⁵⁵ but that the status of *politai* “by nature” could be given to, or withdrawn from, non-*gnesioi* in certain circumstances. The amount of such evidence is relatively limited. It is best discussed with reference to a series of scrutinies verifying the status of *politai* “by nature” in Athens, which came to be known as *diapsephismoi* or *diapsephiseis*.

2. The *diapsephismos* of 510 and later *diapsephismoi*

According to Aristotle, the earliest scrutiny (*diapsephismos*, or *diapsephisis*, as in Harpocration, Δ 50: see below) in Athens occurred after the fall of the Pisistratids

and shortly before Cleisthenes introduced his reforms that allegedly established *demokratia* later in the sixth century (see next chapter).⁵⁶ It was later followed by several more scrutinies, which will be examined here in turn.

The diapsephismos of 510

When discussing the reason for the earliest known Athenian *diapsephismos*, Aristotle mentioned that the party of Pisistratus included many people of “impure birth” (*hoi to genei me katharoi*), who were afraid that there would be a *diapsephismos* after the fall of the tyranny, and that they would lose their *politeia* as a result:

Third was the party of the Hillmen, which had appointed Pisistratus over it, as he was thought to be an extreme advocate of the people (*demotikotatos*). And on the side of this party were also arrayed from the motive of poverty, those who had been deprived of the debts due to them, and, from the motive of fear, those who were not of pure origin (*hoi to genei me katharoi*); and this is proved by the fact that after the deposition of the tyrants (*meta ten ton tyrannon katalysin*) the Athenians enacted a scrutiny (*diapsephismos*), because many people shared *politeia* who had no right to it.⁵⁷

Establishing the meaning of this text and the nature of Pisistratid social support has posed a major challenge. Identifying political supporters only by referencing the size of their personal wealth misses the mark because, it appears, the amount of personal wealth was neither the only nor the most important factor in this person’s social status and political loyalties. While the *Athenian Politeia* says that wealthy people suffered because of Solon’s universal cancellation of debts, or *seisachtheia*, such people were unlikely to have become poor by having been deprived of debts due to them, as has been noted by James Holladay. Plutarch said that Pisistratus was supported by the “multitude of thetes,” who were bitter enemies of the rich.⁵⁸ Other factors also need to be taken into consideration. The people of “impure birth” mentioned by Aristotle have been identified as “foreigners” (who received “Athenian citizenship” from Solon or from the tyrants)⁵⁹ and, more specifically, craftsmen (made “citizens” by Solon) or mercenaries (“enfranchised” by the tyrants).⁶⁰ At least some of these people were probably connected to the family of Pisistratus, who, as we have seen above, married Timonassa of Argos and had two sons by her. Unlike his sons from his Athenian *gamete* wife, Pisistratus’s sons by Timonassa were not *gnesioi*. Although they evidently spent most of their time in the house of their grandfather in Argos, they probably had the status of *politai* in Athens, in spite of being of “impure birth.” This situation was even more pronounced elsewhere, like in Syracuse, where Dionysius II was a *nothos* born to his father by a woman from Locri. His regime, then, was probably more eager to acknowledge *nothoi*, or people of “impure birth,” as *politai* “by nature.”⁶¹

Another challenge posed by identifying the people of “impure birth” has been whether they were the same people – aliens (*xenoi*) and freedmen (*douloi*)

metoikoi) – whom Cleisthenes later enrolled in Athenian tribes.⁶² It is indeed possible that by enlisting the people who had been deprived of their *politeia* in 510 into his new tribes in 507, Cleisthenes enlarged his social support. The Spartan intention of restoring Hippias to power in Athens (Hdt. 5.90–92) shows, according to Moshe Amit (1973, 22), that “Cleomenes had reached the conclusion that the Pisistratids still had many partisans within Athens and that Isagoras’s supporters could not be relied upon.” If this is correct, then at least some of the Pisistratid partisans were those who had been deprived of their *politeia* by the *diapsephismos* conducted after the overthrow of the tyranny. Thus, either Cleisthenes’s tribal reform did not satisfy these people (i.e., they were not included as new *politai* in his new tribes) or – which is also possible, since our knowledge about both the absolute and relative chronology of the events during this period is limited – by giving *politeia* to such people and enrolling them in his ten new territorial tribes, Cleisthenes counteracted the political challenge from the Spartans and their allies. This would mean that once he enrolled such people in his new tribes, Hippias and the Spartans lost their support in Athens.⁶³ What remains the same is that the Pisistratids and Cleisthenes used similar methods to promote their political interests.

Interpretations of the *diapsephismos* of 510 have subscribed to the traditional vision of *diapsephismoi* as scrutinies of citizen status.⁶⁴ However, Cleisthenes did not implement his reforms and establish demes as political entities (which would serve as places for scrutinies in later times) until several years after 510 (see next chapter). Some, like Welwei, Feyel, and Pébarthe, have rejected the *diapsephismos* of 510 and have asserted that there were only two *diapsephismoi* in Athenian history – in 445–444 and 346–345 – thus also questioning the historicity of the *diapsephismos* of 403–402, which will be examined below.⁶⁵ Others, even if they accept the authenticity of the post-Pisistratid *diapsephismos*, have had to reinterpret its date and significance.⁶⁶ In the opinion of Wade-Gery (1958, 148–149), Aristotle’s reference to this *diapsephismos* as having taken place “after the deposition of the tyrants” provides an inexact dating, and this *diapsephismos* should not have been connected with the fall of the tyrants but, rather, with Cleisthenes’s reforms. Still others, who were not ready to either reject the evidence or redate it, have consented that there was a verification done after Hippias’s expulsion, although not necessarily under the name of *diapsephismos*. Such views include Arnold W. Gomme’s compelling observation that “Aristotle’s use of the word *diapsephismos* in connection with the expulsion of large number of the tyrants’ adherents in 510 is probably an anachronism; and in any case the voting did not take place in the demes, which had not then been instituted; though I see no reason for doubting either the expulsion or the alleged reason – impure birth.”⁶⁷ While perfectly acceptable, this view offers no answer to three basic questions: What did “impure birth” actually mean, how were political rights defined before Cleisthenes’s reform, and how was the scrutiny conducted in 510, i.e., before Cleisthenes’s introduction of the deme system?

By focusing on either the place of residence (highlands, plains, or the coastal region) or the amount of personal wealth and occupation (peasants, craftsmen) of Pisistratid adherents, modern scholarship has generally ignored the question of

their social background. For the most part, the problem of the pedigree of these people has been neglected or only marginally discussed.⁶⁸ However, it is their origins that provide the answer to the challenges and questions formulated above. “Impure birth” was not the same as foreign birth. Aliens could receive Athenian *politeia* as a grant. Though it was often in return for benefactions, which was a legal requirement for such awards, this was not always the case. Some received *politeia* through connections or bribery of politicians; some because of their fame; and it was also granted to rulers and royal officials, largely in anticipation of future benefactions.⁶⁹ None of these people was of a local, or “pure,” birth. Hence, when Harpocration defined the purpose of a *diapsephismos* (or *diapsephisis*, as in his text) as having been to verify that no alien (*xenos*) had *politeia* in Athens, what he meant was *politeia* “by nature,” not “by decree.”⁷⁰ *Politeia* “by nature” was verified by checking deme registers because, according to Cleisthenes’s reform, all male *gnesioi* were registered in Athenian demes once they reached the prescribed age and passed the required verification of their legitimate birth (see next chapter). Libanius showed how this system worked in post-Cleisthenic Athens:

The law (*nomos*) of the Athenians says that there should be a judicial inquiry (*zetesin*) of all those written down in the *lexiarchica grammateia*, to see if they are *politai* as lawfully born (*eite gnesioi politai eisin*) or not. Those who are not born from an *astos* and an *aste* are thrown out; and the members of the deme are to vote (*diapsephizesthai*) on everyone. Those who were voted out (*apopsephisthentas*) and accepted the vote are to be excluded from the *demotai* and to be metics. As for those who wish to appeal (the result of) the inquiry to the judges, if they lose before the tribunal as well, they are to be sold, and if they get away, they are to be *politai*.

Aeschines provided similar evidence when he said that “scrutinies have taken place in the demes, and each of you has submitted himself to the vote, to see who is truly Athenian and who is not.” The ethnic reflected the status of a *polites*.⁷¹ The purpose of such scrutinies was, therefore, to verify that every *polites* “by nature” was a *gnesios*; no such scrutiny was needed for *politai* “by decree,” i.e., those *politai* who had received that status as a gift from the city.

The people of “impure birth” were non-*gnesioi*. Since this system, which was established by Solon, had evidently become corrupted by the Pisistratids, who acknowledged (some) non-*gnesioi* as *politai* “by nature,” it had to be restored after the tyranny was over. The immediate purpose of a *diapsephismos* was to verify the birth status. According to Aristotle (*Ath. Pol.* 42.1), the *demotai* voted (*diapsephizontai*) to confirm that an applicant was of legal age, a free person, and of legitimate birth (*ei . . . gegone kata tous nomous*). If the requirements were met, his right to *politeia* “by nature” was acknowledged, which also confirmed his political status and, accordingly, his membership in the deme system. Since the proof of a legitimate birth – or, in other words, the status of a *gnesios* – existed independently of the possession of political rights and predated Cleisthenes’s reform, this type of scrutiny could be performed before

the transformation of demes into the backbone of the Athenian political system. No grounds exist to deny the historicity of the *diapsephismos* in 510. We do not know how that *diapsephismos* was conducted because we do not know the way, if any, *politai* “by nature” were organized at that time. However, since only *gnesioi* could be *politai* “by nature” both before and after Cleisthenes, any scrutiny of *politai* “by nature” had to go through the organization that was only open to the *gnesioi*. It is likely, therefore, that the *diapsephismos* of 510 was conducted through either *gene* or phratries, or through tribes. *Gene* and phratries remained open only to the *gnesioi* in later times: when fathers introduced their sons, either naturally born or adopted, in their *gene* and phratries, they had to swear a religious oath that these sons were legally born, or *gnesioi*; and when claims of legitimate birth were made in the fourth-century inheritance disputes, as well as when appeals were made against expulsions from demes, such claims were supported by pointing to the defendants’ phratry membership. However, the *diapsephismos* of 510 could also have been conducted through tribes, which were kinship organizations with political character before Cleisthenes’s tribal reform later in the sixth century, as discussed in the next chapter.

A popular belief, based on references in several ancient texts, has been that Pisistratus preserved – at least, for the most part – the “Solonian constitution.”⁷² He appears, however, to have made at least one major departure from Solon’s system. During the Pisistratid tyranny in Athens, it was not only *gnesioi* who were acknowledged as *politai* “by nature”; so were people of “impure birth.” Redefining the criteria for holding *politeia* “by nature,” certainly, needs to be distinguished from concessions of *politeia* “by decree.”⁷³ The latter were extended to people whose status as foreigners and resident aliens raised no doubts, regardless of the political regime in the city, as seen, for example, in grants of Athenian *politeia* by Solon to foreign exiles and craftsmen (Plut. *Sol.* 24.4) and, undoubtedly, by the Pisistratids to some people.⁷⁴

Acquiring *politeia* “by nature” and “by decree” required correspondingly different types of scrutiny. Unlike *diapsephismos*, which verified the status of *politai* “by nature” through a checking of their origins and, therefore, membership in the kinship community, *dokimasia* established whether the prospective recipient of *politeia* “by decree” had been a benefactor of the city and, in some cases, a *polites* elsewhere.⁷⁵ Although the two practices are not always carefully distinguished,⁷⁶ the suggested identification of *diapsephismos* with *dokimasia* as the scrutiny of grants of *politeia* should be rejected.⁷⁷ Even still, neither scrutiny was concerned with the status of a citizen, because not all *politai* had political rights.

Focusing on the Pisistratid policy towards *gnesioi* and non-*gnesioi* might also explain several other developments in late sixth-century Athens. One of them is Pisistratus’s military reorganization, including his “disarmament of the Athenians” (Arist. *Ath. Pol.* 15.4–5; Polyae. 1.21.2). This measure has raised questions as to both the nature and the reliability of the evidence,⁷⁸ and the significance of what Pisistratus was doing: how should we interpret this “disarmament” if Pisistratus posed as a friend of people?⁷⁹ The answer to this question might lie in the fact that the pre-Solonian organization of Athens connected the

right to *politeia* with the right to possess arms. Both rights belonged only to those *astoi* who had a certain amount of wealth. According to Aristotle (*Ath. Pol.* 4.2), who used the terminology of his time, Draco allotted *politeia* to those able to provide themselves with arms. The Athenian oligarchs took a similar stance in 411, when they promised that the Five Thousand *politai* would hold a “review under arms” (*exetasin en hoplois*), and in 404–403, when the Thirty decreed that they would not only hold a military review (*exetasin*) of the Three Thousand *politai* but that they would also disarm all those who did not belong to that number.⁸⁰ Such measures were certainly military precautions against the enemies of the oligarchy. However, these measures were founded on the perception – which went back to pre-Solonian times – that only those of *astoi* who could afford to have arms were entitled to the status that was retrospectively defined as *politeia*. Therefore, while describing the laws of Draco, Aristotle (*Ath. Pol.* 4.2) stated that “*politeia* had already been bestowed on those who provided themselves with arms.” As noted above, however, these principles were applied regardless of political regime. It is possible, for example, that Cleisthenes’s grant of *politeia* to non-*gnesioi* enabled Athens to improve militarily, as reflected in the story about Athenian victories over the Chalcidians and the Boeotians on a single day (Hdt. 5.77–78; see next chapter). It is likewise possible that a measure Pisistratus had undertaken was later reinterpreted as his “disarmament” of the people, whereas what Pisistratus probably did was to deprive some *astoi* of their right to *politeia* “by nature,” and, accordingly, of the possession of arms. Other Athenian *astoi* kept their *politeia* and their arms, like Harmodius, Aristogeiton, and their fellow-conspirators, who openly paraded under arms in 514, although Arist. *Ath. Pol.* 18.4 disputed this story.

Later diapsephismoi

Although later scrutinies fall off the chronological framework of this book, our examination of sixth-century Athens will profit from the addition of this material, because, similar to the *diapsephismos* of 510, such scrutinies turn out to have had the same purpose of verifying the origins of *politai* “by nature.”

(1) The law of Pericles (451–450) and the diapsephismos of 445–444

The law that Pericles put forth in 451–450 has been extensively discussed with the aim of establishing its significance and its relationship with the *diapsephismos* that is thought to have occurred in Athens in 445–444. Ancient texts about this law state the following:

(Arist. *Ath. Pol.* 26.3) in the archonship of Antidotus (451–450), owing to the large number of *politai* (*dia to plethos ton politon*) an enactment was passed on the proposal of Pericles that no one could share in the city unless he was born of two *astoi* (*me metekhein tes poleos hos an me ex amphoin astoin e gegonos*);

(Plut. *Per.* 37.3) Pericles . . . proposed a law (*nomon egrapse*) that only those could be Athenians who were born of two Athenians (*ek duein Athenaion gegonotas*).

(Ael. *Var.Hist.* 6.10) Pericles proposed in Athens a law (*nomon*) that unless both parents were *astoi* a man should not have *politeia* (*touto me meteinaï tes politeias*). The two sons he had, Paralus and Xanthippus, died in the epidemic of plague. Pericles was left with his illegitimate children (*epi tois nothois*), who could not partake in *politeia* (*hoiper ou meteskhon tes politeias*) owing to their father's law . . . and (13.24) . . . Pericles proposed that whoever was not the child of two *astoi* (*hos me eks amphoin gegonen astoin*) should not be an Athenian (*me einai Athenaion*). Then he lost his legitimate children (*tous gnesious paidas*) and was left with his illegitimate son Pericles (*epi to notho Perikleï*).

Almost anyone who wrote about the Periclean Athens or on "ancient Greek citizenship" or on "classical Athenian democracy" has had something to say about this law. The common opinion has been that Pericles restricted citizenship to the descendants of "Athenians" on both sides, thus generally following Plutarch's very imprecise definition of this measure.⁸¹ However, specific interpretations of the reasons and aims of this law have differed.⁸² Some asserted that Pericles preserved the social integrity of Athenian citizenry by effectively outlawing marriages with foreign families, possibly as a repercussion of alliances that were regarded as politically dangerous.⁸³ Peter J. Rhodes expressed a similar opinion when he said that "we may guess that mixed marriages had been accepted when they were few and illustrious, but were incurring disapproval as they became more frequent: Athens and her democracy were flourishing, and membership of the citizen body should be limited to those who were entitled to it by their Athenian origins."⁸⁴ Sarah C. Humphreys argued that the purpose of Pericles's law was "to prevent families based on international dynastic marriages from using their private relationships to manipulate foreign policy"⁸⁵ and John K. Davies held "Pericles' citizenship law of 451/0" as directed both against "the foreign wives of aristocrats such as Cimon" and "the rapid enlargement of the citizen body by non-Athenian men," whereas David Braund saw it as "an attempt to restrict the marriages of the Athenian élite to Athens itself. By so doing, the law limited the potential of the élite to engage in the personal foreign diplomacy that seemed to threaten democracy." Finally, Silvio Cataldi saw Pericles's aim as restoring "racial purity" in Athens.⁸⁶ Others have asserted that the "main object of the law of 451–450 was probably to preserve the social purity of the citizen body."⁸⁷

Although the two interpretations of the purpose of that law overlap, they remain distinct in the sense that while the former focuses on this law as imposing limits on foreign and aristocratic influence on Athenian affairs (through dynastic marriages of the élite), the latter emphasizes the effect of this law on the "social purity" of the people who lived in the city, so that, according to Robert K. Sinclair, "the citizen body was to be sealed off and self-perpetuating." The adherents of the

latter view considered Pericles's main target to have been the increasing influence of the metics because, as formulated by Martin Ostwald, "this law would not have been enacted if the influx of metics had not been regarded as constituting a significant threat to the rights of Athenians."⁸⁸ In either case, the law of Pericles allegedly achieved this purpose by "limit[ing] citizens in their choice of wives."⁸⁹

Interpretations of the profound effect of this law – which "inaugurated a new chapter in the gender history of Athens' democracy," according to Susan Lape; became the "first definition of citizen status by *polis* consensus," for Josine H. Blok; and was the "single most important law concerning citizenship," in the opinion of Victoria Wohl – on other aspects of the social life of Athens have been similarly diverse.⁹⁰ Some of them pertained to the status of women. For example, Alexander Fuks and Michael J. Osborne suggested that the *metroxenoi*, i.e., children by foreign mothers, "who previously had been regarded as citizens, provided that the mother was an *engyete gyne*, were excluded from citizenship." But how could a female alien (*xene*) become a wife through engyetic marriage if this type of marriage was reserved only for *astai*? There were probably exceptions to the rule. However, the only piece of relevant evidence, Hdt. 6.130.2, which mentions how Cleisthenes the tyrant of Sicyon gave his daughter in marriage to an Athenian "according to the laws of the Athenians," leaves unclear as to what that marriage and those laws were supposed to be. Even if the historical validity of this text can be trusted, we should not mix up the nobility of origin and the legitimacy of origin. Some children born to mixed marriages claimed noble origin and played active roles in Athenian affairs during the classical period, which is no proof of their status as legitimate (*gnesioi*) in the city.

Many have stressed the importance of Pericles's law as defining the "citizenship" of Athenian women. If the law required that citizens were only those whose father and mother were citizens, then this law allegedly changed the status of women by acknowledging them as citizens.⁹¹ Some believed, therefore, that "down to 451/0 citizenship depended on the father alone" (de Ste. Croix) and that "this law implied that women, as well as men, could be citizens" (Sealey), thus creating "female citizenship" (Patterson), and that it "identified no difference between the citizenship of men and women" (Biesecker). Still others asserted that this law drew distinctions "between women resident in Attica who were (in some sense) citizens and those who were not" (Podlecki), and that "citizen women were carefully distinguished from those who were not" (Fantham).⁹² However, even if a mother's citizenship only began to be taken into consideration for determining the status of a child in 451–450, this alone neither does nor can deny that female citizenship might also have existed before that time.⁹³ Either way, these conflicting views disregard the fact that women did not have political rights in ancient Greece and, therefore, they could not be counted as citizens, if one still wishes to use this modern concept. Additionally, such theoretical constructions have defined *politeia* with the help of the word "citizenship," whereas, as we have seen above in chapters 3 and 4, far from all *politai* had political rights, or citizenship.

Others insisted that this law changed the understanding of bastards in Athens by "restricting citizenship to those born of citizen parents on both sides"

(Humphreys, Carey, Omitowoju, Lape, Damet, Blok), so that *nothoi* lost their “citizenship” as a result of this law (Müller, Glotz, Thompson, Carlier, Queyrel, Bertazzoli, Bearzot).⁹⁴ But *nothoi* had no citizenship, or political rights, “by nature,” i.e., by virtue of their birth, because Solon’s reforms distinguished them from the *gnesioi* who had the right to *anchisteia*⁹⁵ and, therefore, to *politeia*, while Cleisthenes’s reforms made *gnesioi* the only people who had political rights in Athens (see next chapter). Even more important, Pericles’s law is credited with having finally defined the membership of the demes and phratries. According to Cynthia B. Patterson, “there was no *polis* law defining or controlling membership of the demes and phratries before Pericles set forth his requirement for ‘having a share in the city.’” She concluded that “until the mid-fifth century traditional rules and identity (both deme and phratry membership), were insufficient to determine who was an Athenian citizen,” which lay at the base of her chapter on “the immediate political context of Pericles’ law.” Others, too, expressed similar views.⁹⁶

When put together, these numerous and diverse interpretations assert that the law of Pericles had a revolutionary impact on Athens by profoundly modifying her political and social organization, which had been established by Cleisthenes.⁹⁷ Aristotle (*Ath. Pol.* 26.3) and Aelian (*Var. Hist.* 6.10, 13.24) show that Pericles deprived all non-*gnesioi* of *politeia* “by nature.” Plutarch’s reference to “two Athenians” is too vague, but he was still correct in saying that the law of Pericles concerned bastards (cf. Plut. *Per.* 37.2: *ton peri ton nothon nomon*), i.e., non-*gnesioi*. If we examine this law within the context of similar measures in 510, 403–402, and 346–345, it appears that Pericles merely upheld the old principle that *politeia* “by nature” belonged solely to the *gnesioi*, as has been discussed in chapters 1 and 3.⁹⁸ Pericles’s law did not change anything in the status of metics and *nothoi*, who had no access to *politeia* “by nature” to begin with, since it was reserved only for *gnesioi* from the time of Solon’s reforms. As we have seen above, non-*gnesioi* (i.e., people of “impure birth,” including *nothoi*) were acknowledged as *politai* “by nature” only in times of political and military crisis or in shortages of *politai*. In normal circumstances, such people could only receive *politeia* as a grant.

Identifying *astoi* and *gnesioi* as citizens has blurred the correct vision of the law of Pericles, since not all of *astoi* and *gnesioi* had political rights. Upon closer inspection, Pericles’s “citizenship law” simply confirmed the rule whose authorship the Athenians ascribed to Solon, that only the *gnesioi*, i.e., people who were born of two *astoi* in engytic marriage, could be *politai* “by nature,” or by virtue of their birth. The major problems with this law, then, do not appear to be its nature but the reason why Pericles proposed it in the first place and, closely intertwined with this, its relation to the *diapsephismos* in the archonship of Lysimachus (445–444), which was described by Philochorus, as we learn from the scholiast on Aristophanes’s *Wasps*, 718:

[U]nless this is the story of the gift from Egypt, about which Philochorus says that Psammetichus sent to the (Athenian) people, in the archonship of Lysimachus, thirty thousand (measures of grain), except that the amount in

no way corresponded to the number of people, to give five medimnoi to each of the Athenians . . . as the distribution of grain took place, the Athenians conducted the expulsion of aliens (*xenelasia*), and found that four thousand seven hundred and sixty aliens (*xenous*), both locally born and others, had been subscribed . . . and as hunger occurred, the aliens were decided upon, that is, scrutinized whether [each of them] was a *polites* or not.

This raises several more questions. The first is why two measures pertaining to the same procedure took place twice within only six years. The next question is no less obvious because, according to the words of Philochorus (*FGrH* 328, F 119), the *diapsephismos* of 445–444 resulted in 4,760 people losing *politeia*. If Pericles's law reinforced restrictions on access to the status of *politai* "by nature" in 451–450, how could thousands of non-*gnesioi* have become Athenian *politai* "by nature" between 451 and 445? Another closely connected question is why, in the 430s, when Pericles begged the Athenians to give *politeia* to his bastard son by Aspasia (see appendix 6), Pericles was thought to be going against his own law of 451–450, and not the more recent *diapsephismos* of 445–444?

Some have suggested that our sources "telescoped" the events of 451–450 to 445–444.⁹⁹ Others have rejected any direct link between the law of Pericles and the *diapsephismos* in 445–444. For example, Rhodes noted that the gift of Psammetichus of Egypt "provoked a check on the registers of citizens (445–444)," observing that "we need not follow Plutarch (*Per.* 37.4) in linking this check with Pericles' law, but it reflects the same attitude, that only those with a good claim to them should enjoy the benefits of Athenian citizenship: there is nothing incompatible with democracy in the law."¹⁰⁰ Still others have proposed that the law of Pericles served as the basis for the *diapsephismos* in 445–444, and, thus, there was only one *diapsephismos*, in the mid-440s.¹⁰¹ Welwei has simply stated that the law first happened to be "bypassed" and it was only adopted later.¹⁰² But why was not it "bypassed" in 445–444? Finally, the proposal of Giuseppe Nenci to redate the *diapsephismos* from 445–444 to 424–423 does not seem to have received any noticeable support.¹⁰³

Even more important, regardless of whether the two events were connected or not, why did the *diapsephismos* take place in the mid-fifth century? This question is not as simple as it might seem on the surface – the previous (510) and subsequent (403–402) *diapsephismoi* occurred after tyrannies were overthrown and, accordingly, the principle of access to *politeia* "by nature" was restored. One of the explanations for the scrutiny of 346–345 has been mounting tensions between Athens and Macedonia, which the peace of Philocrates failed to resolve and which evidently made verifying the status of Athenians necessary. The *diapsephismos* of the mid-fifth century seems to have been the only one that was not provoked by a political or military crisis. The reason why Pericles expressly upheld the principle that *politeia* "by nature" belonged only to the *gnesioi* probably lies in the history of Athens in the mid-fifth century. That time has often been characterized as the radicalization of Athenian democracy.¹⁰⁴ In fact, some even think that this was when Athenian democracy actually emerged:¹⁰⁵ the first documented case of

ostracism has been dated to 488–487;¹⁰⁶ the nine archons started to be chosen by lot from 487;¹⁰⁷ the scrutiny of the Cleisthenes's council of 500 was instituted in 462;¹⁰⁸ the *zeugitae* obtained access to the archonship in 458–457, so that they (and possibly the *thetes*) received equal political rights in the mid-fifth century;¹⁰⁹ the system of the *prytans* was established by the mid-fifth century;¹¹⁰ and the terms *dikasterion* and *dikastai* are thought to have appeared in 450–449, i.e., about the time Pericles introduced jurors' pay.¹¹¹ It is possible that the establishment of Athenian democracy – or its radicalization, if one wishes to avoid getting immersed in the endless debate about the date when Athenian democracy actually emerged – was what required Pericles to uphold the principle that *politeia* “by nature” belonged only to the *gnesioi*.¹¹² Once the individual status of Athenians was verified, non-*gnesioi* lost their economic and legal privileges, including the status of *politai*, and – in the case of adult males – political rights, including deme membership. Pericles's law, therefore, defended the interests of both the kinship community of Athens and Athenian *demokratia*.¹¹³

Interpreting *politeia* as citizenship has confused the modern vision of the real significance of the law of Pericles, which, in fact, upheld the principle that only *gnesioi* could have *politeia* “by nature,” or by virtue of their birth. This system, established by Solon, had no immediate relevance to political rights, or to citizenship – either in the time of Solon or in later times. Once we dissociate the status of *polites* from the possession of political rights, or “citizenship,” many of the problems disappear. For example, nothing in this law leads us to regard women as citizens: they certainly could have *politeia*, but this status did not necessarily entail political rights. Likewise, it was possible for one person to be a *nothos* and a *polites* simultaneously. Not only could non-*gnesioi* (such as bastards, or metics, or *xenoi*) receive *politeia* “by decree,” as a special grant from the city, but under some political regimes, both before and after Pericles, people of “impure birth” could be acknowledged as *politai* “by nature.” This approach also elucidates the phrase from Aristotle that the law of 451–450 was passed “because of the big number of *politai*” (*Ath. Pol.* 26.3; see above). Some have explained this phrase with reference to the growth of the Athenian population.¹¹⁴ However, the “big number of *politai*” described a situation in which there were too many *politai* in the city because many non-*gnesioi* had *politeia* “by nature.” The interpreters of the law of Pericles went astray by mistaking an ordinary measure for one of the decisive turns in Athenian social and political history, similar to some other events in ancient Athenian history.¹¹⁵ The ordinary character of this event was reflected by the small amount of attention that it received from ancient writers, which has surprised modern authors.¹¹⁶ The measure that Pericles introduced was of the same nature as the purge of 510 and the scrutinies that accompanied the restoration of *politeia* in 403–402 and in 346–345, as we shall see below.

(2) *The diapsephismoi of 403–402 and 346–345*

The *diapsephismos* held during the archonship of Eucleides (403–402) is better documented than that of 445–444, or than Pericles's law of 451–450, and it has

generally been reinterpreted as the latter's reenactment.¹¹⁷ That reenactment was allegedly necessitated either because the law of Pericles had quickly become a dead letter, losing its legal force, or due to the need to inscribe this law.¹¹⁸ The orator of [Dem.] 43.51, who referred to the law dealing with inheritance by legitimate (*gnesioi*) children and the establishment of the guardians (*kyrioi*), said that "neither male nor female bastard shall have the right of succession either in religious and civil affairs, from the time of the archonship of Eucleides." Because Isaeus's speech (6.47) reproduced the same phrase word by word, both orators probably quoted the actual text of the law. Among several other sources that pointed to the same event, the text of Athenaeus mentioned that

the rhetor Aristophon, who introduced a law (*nomon*) in the archonship of Eucleides that the person born not from an *aste* should be held as a bastard (*hos an me ex astes genetai nothon einai*), was himself shown by the comic poet Calliades to have had children by the prostitute Choregis.

Aristophon evidently suffered the same fate as Pericles: neither of them ultimately had surviving legitimate sons.¹¹⁹ The similarity between the positions of these two people points to the similarity of the measures that they introduced: in each case, the legitimate status was determined by the person's birth.

A later scholiast on Aeschines (Schol. Aeschin. 1.39 [83]) observed – with reference to an earlier work by Eumelus on ancient comedies (*FGrH* 77, F 2) – that only the children of two *astoi* could "partake in *polis*," i.e., in *politeia*, after the archonship of Eucleides. His words establish a parallel between the law of Pericles in 451–450 and the law of Aristophon in 403–402: each measure evidently served to reinforce the principle originally laid down by Solon, which entitled only *gnesioi*, or legitimate children born by two *astoi* in engytic marriage, to *politeia* "by nature." Some might come to the same conclusion by examining the speech of Euxitheus. He was defending his status of a *polites* in Athens before the people's assembly, after having been expelled from deme registers because of the *diapsephismos* of 346–345, by saying that his father "was born in a period when, even though only one of his parents belonged to the *astoi*, he would still qualify as a *polites*, for he was born before the archonship of Eucleides" (Dem. 57.30). It looks as if the old principle had once again been relaxed, and, just as Pericles upheld it in the mid-fifth century, Aristophon reinforced it again fifty years later. However, the situation appears to have been more complex than it might seem at first sight. Texts from the fourth century and later times show that non-*astoi* males could also produce legitimate (*gnesioi*) children in Athens.

One of these texts is the speech *Against Neaera*, which mentions that the Plataeans, who received Athenian *politeia* in the late fifth century, lacked the right to occupy priesthoods and archonships. Their children could have access to those positions if they were born from *astai* in engytic marriage, however. A fragment of Craterus, an author of the third century, points to a similar situation, noting that any willing Athenian from among those with the right to file suits could accuse someone who wanted to be a member of a phratry, although he was a son of

two aliens (*ex amphoin xenoin gegonos phratrizet*).¹²⁰ The implication was that membership in Athenian phratries was possible for the people who had only one parent who belonged to the *astoi*. The sacred oaths, sworn by Athenian fathers when they were introducing their sons in their *gene* and phratries in the fourth century, indicated that the children had been born by *astai* in engytic marriage, without any mention of the status of the fathers themselves. This is what Antiphon evidently implied when he defined a child born from an *aste* as legitimate, making no mention of the father's status.¹²¹ Isaeus's speech on the estate of Ciron referred to the same law, though in much looser terms. The speaker insisted that he and his brother were legitimate grandchildren of Ciron because their mother was Ciron's legitimate daughter (*gnesia*) and, therefore, an *aste* (Isae. 8.6–9, 45). Their father was never named and his status never mentioned, although he was evidently also an *astos*, as follows from the speaker's reference to that father's deme and phratry membership in another part of the speech (8.18). However, it is only the status of the mother that appears to carry significance in the brothers' claim for the estate of the late Ciron and, primarily, for their status as legitimate and *astoi* (8.43).

Some have used this evidence to argue that the *diapsephismos* had no retroactive force, and that the bastards who received *politeia* before 403–402 could keep it after that year. Among others who accepted this view, Pierre Carlier claimed that the children of a citizen male and an alien female born before 403 would remain citizens; Michael J. Osborne noted that “in 403/2 the Periclean regulations concerning citizenship had been re-enacted, but persons born prior to 403/2 had specifically been exempted”; Douglas M. MacDowell postulated that “when the requirement to have two Athenian parents was renewed in 403–2, we are told explicitly that it did not apply to those who were born before that year; thus a boy born in 404 to an Athenian father and a foreign mother could be enrolled in a decree as a citizen on reaching the age of eighteen in 386”; whereas Kenneth R. Walters even asserted that “bastards were fully citizens both before and after 403/2.”¹²² A similar understanding has been projected even to Pericles's *diapsephismos* of 451–450: those who interpreted it as a “citizenship law” claimed that it had no retroactive force and, thus, children born by foreign mothers before the passage of that law were to be enrolled in a deme after 451, once they reached the legal age of eighteen.¹²³

This view certainly reflects the argument of Euxitheus, who, as noted above, was trying to defend the *politeia* of his father, and his own, in this fashion. However, *diapsephismo*i were conducted precisely with the aim of depriving non-*gnesioi* of *politeia* and other rights and privileges (including political rights and, accordingly, deme membership, in the case of adult males after the reforms of Cleisthenes), which such people could not enjoy because of their impure birth.¹²⁴ Any *diapsephismos* only served to restore the status quo by reestablishing Solon's rule that solely the *gnesioi* could have *politeia* “by nature.” Many have noted that the law of 403–402 merely reinforced the provision of the law of 451–450.¹²⁵ Aristophanes's *Birds* (414 B.C.), in which non-legitimate children had no right to *anchisteia* (which should also mean no access to *politeia* in Athens), shows that the rule remained the same throughout the second half of the fifth century.¹²⁶

The same rule, whose origins can be traced to Solon's reforms in the early sixth century, had been upheld by the *diapsephismoi* of 510 and 445–444 and by the law of Pericles in 451–450. Any breaks from that rule were seen as deviations that happened because of political upheavals, like the grants of the status of *politai* “by nature” to many non-*gnesioi* during the Pisistratid regime and then by Cleisthenes as well as, supposedly, by the oligarchs in the late fifth century. Cheryl A. Cox used the evidence about the *diapsephismos* of 403–402 as proof of the subsequent legitimization of bastards in Athens, while insisting that after the end of the Peloponnesian War, “throughout the fourth century there were increasingly harsher laws regarding marriages between citizens and non-citizens.”¹²⁷ However, the *diapsephismoi* of 510, 445–444, and 346–345 show that the attitude toward the legal and political status of bastards in Athens remained the same throughout the late archaic and classical periods. Hence, Aristotle's (*Ath. Pol.* 42.1) description of Athenian *politeia* in the late fourth century stated that both of an individual's parents had to be *astoi* (*hoi ex amphoteron aston*) for that person to belong to the *politeia*.

This situation did not remain static, however. The evidence presented above shows that, at some point in time, it was no longer necessary for a child to be born only from two *astoi* in engytic marriage to be counted as a *gnesios* and, therefore, as a *polites* “by nature.” It is unclear when, exactly, this change happened. However, it is reflected in the *diapsephismos* of 403–402, which makes it unique among other such scrutinies. There are two reasons for this uniqueness, both of which were closely connected with the realities of the Peloponnesian War and its eventual outcome. One of them was that the way in which the status of the *gnesios* was understood was changing, as illustrated by looking at two developments. The first such development concerns the grant of *politeia* to the Plataeans after their city was destroyed by the Thebans and Spartans in 427. Although the Plataeans were expressly forbidden from occupying political offices and priesthoods in Athens, they had the right to arrange engytic marriages with Athenian *astai*. The children born in such marriages were acknowledged as *gnesioi* and were allowed access to all civic and religious positions in the city. Since the fathers of such children did not belong to the *astoi*, the term *gnesios* was not used as a kinship term but as a legal definition, thus affecting the nature and the perception of the Athenian kinship community. Apollodorus, who provided this information, also noted that other *politai* “by decree” held a similar status ([Dem.] 59.92 and 106, with page 286, n. 14). The evidence about the Plataeans appears to be the earliest information of this kind. It is possible, therefore, that the change in the meaning of *gnesios* had indeed happened in the late fifth century. It follows, then, that the parent who necessarily had to belong to the *astoi* to make a child count as legitimate was the mother. We see similar situations in a well-known inscription from Thasos, which contains the text of the decree giving the *politeia* of that city (the reference is made using its ethnic) to children for whom only the mother was a Thasian, and in the regulation on a massive grant of *politeia* by Phalanna in Thessaly, which gave *politeia* to those who were born “of Phalannian mothers.”¹²⁸ A similar conclusion follows from the earlier-discussed oaths sworn by Athenian

fathers to prove that they were introducing legitimate (*gnesioi*) sons in their *gene* and phratries. Such oaths confirmed that the children had been born by *astai* in engyetic marriage, making no reference to the status of the fathers themselves. The legitimacy, therefore, was matrilineal.¹²⁹ The second development concerns a special regulation, adopted during the war, which allowed Athenian *astoi* to take a second wife from among the Athenian *astai* and beget children with her, as did Socrates and, allegedly, Euripides, among others. Children born by those wives qualified as *gnesioi*, although they were not born in an engyetic marriage.¹³⁰ Since the Athenian people legally sanctioned these developments, they were not reversed after the war ended and the Thirty were overthrown: the children born to such couples were still counted as legitimate.

The other reason why the *diapsephismos* of 403–402 was unique in having no retroactive force is the general amnesty announced in Athens after the overthrow of the rule of the Thirty, which took place in the archonship of Eucleides.¹³¹ Studies of that amnesty have focused on its political importance¹³² and on whether the so-called decree of Demophantus and several other legal texts included in Andocides's *On the Mysteries* were genuine documents. Both camps in the latter debate, however, agree that the amnesty established that “offenses committed before the archonship of Euclides could no longer be brought to trial.”¹³³ In line with this provision, the amnesty is thought to have restored the rights of the *atimoi*. The latter are regarded as having lost their status because of political or economic reasons. Here, too, the two sides in the debate appear to agree, although their identification of the *atimoi* differs.¹³⁴ However, some of these people were *atimoi* because of their origin. Just as the Athenians were required to forget about political and military crimes (with some exceptions) committed in the preceding period, so, too, they acknowledged as *politai* “by nature” those who had been born outside of engyetic marriage during that time. The speech *Against Neaera* ([Dem.] 59.16–17) seems to have reflected the same situation, when it mentioned the law (*nomos*)

which forbids an alien woman (*xene*) from living with an *astos*, and an *aste* from living with an alien man (*xenos*), and absolutely forbids such couples from having children (*oude paidopoieisthai*), by any manner or means.¹³⁵

David Whitehead noted that “whether this fifth-century legislation declared mixed marriages (*astos* with *xene*, *xenos* with *aste*) positively invalid or merely deterred them indirectly, through the disabilities falling upon the children, remains unclear,” whereas, more recently, Virginia Hunter has interpreted these words as referring to “a law prohibiting marriage between aliens and citizens.”¹³⁶ Christopher Carey’s observation that “it was not illegal for an Athenian to have children by a foreign female; what was illegal was to represent such children as lawful” is correct. And the reference to the “procreation of children (*paidopoieisthai*)” certainly points to the status of legitimate children.¹³⁷ However, discussions of this text have misinterpreted its significance by holding the free population of Athens and other Greek cities to be divided only into “citizens” and “non-citizens,”

and ignoring the *astoi* and *politai*. The law mentioned in [Dem.] 59.16–17 did not apply to the Plataean recipients of Athenian *politeia*, or to other *politai* “by decree,” who – although themselves not *gnesioi* and, therefore, non-*astoi* – received the right to *enktesis* together with *politeia*, and, therefore, could arrange engytic marriages with *astai* and produce *gnesioi* children. However, while the Athenians rationalized the status of a *gnesios* in both kinship and legal terms, the relationship between the status of the *gnesios* and *politeia* did not change: only *gnesioi* could have *politeia* “by nature,” or by virtue of their birth.

A similar interpretation should be given to the *diapsephismos* that was ordered by the decree of Demophilus in the archonship of Archias (346–345). In addition to the excerpt from Libanius quoted above, this *diapsephismos* was also mentioned in the following sources:

(Dem. 57.3) it is your duty (i.e., of the judges) to treat with severity those who are proved to be aliens (*xenoi*), who without having either won your consent or asked for it, have by stealth and violence come to participate in your religious rites and common activities, but to bring help and deliverance to those who have met with misfortune and can prove that they are *politai*.

(Aeschin. 1.77) scrutinies have taken place in the demes, and each of you has submitted himself to the vote, to see who is truly Athenian and who is not.¹³⁸

(Aeschin. 1.114) he claimed that Philotades of Cydathenaeum, one of the *politai*, was a freeman of his, and he persuaded the members of the deme to strike him from the list (*apopsephisasthai*).

(Harp., Δ 50) *diapsephisis* applies to the scrutinies (*exetaseon*) in the demes, which take place for each of the *demotai*, (to find) whether he is, in fact, a *polites* and a *demotes* or whether his name has been inscribed illegally, since he is an alien (*xenos*): (so) Aeschines (in the speech) *Against Timarchus*. The most complete description of scrutinies (*diapsephiseon*), how they took place in the archonship of Archias, (has been given) by Androtion in his *Atthis* and by Philochorus in the sixth (book) of his *Atthis*.¹³⁹

(D.H. *Din.* 11) [the speech of Dinarchus *Against the Marshals (Kata Kerykon)*] was delivered in the case of a certain man who had been stricken from the list (*apopsephisthentos*) during the year of Archias.

Since *diapsephismoi* were conducted through checking deme rolls, the usual opinion has been that this *diapsephismos* verified the political rights of Athenians.¹⁴⁰ However, like earlier scrutinies, the *diapsephismos* of 346–345 was aimed at those aliens who – instead of receiving *politeia* by consent of the Athenians, as pointed out above in Dem. 57.3, that is “by decree” – claimed the right to *politeia* “by nature,” posing as *gnesioi*. The scrutiny, accordingly, verified that this privilege belonged only to *gnesioi*. Isaeus’s speech on behalf of Euphiletus described

the revision of *politeia* conducted through deme rolls in 346–345 in the sense that the person expelled by the *demotai* was also deprived of his *politeia*.¹⁴¹ And in his speech against Eubulides (Dem. 57.1–3), Euxitheus, who had been thrown out of his deme as a result of the *diapsephismos* of 346–345, claimed that he had the right to *politeia* by virtue of his birth. He insisted that his mother was an *aste* and a *politis*, adding that his father also held the same status (Dem. 57.43–46), implying that he himself was a *gnesios*. Another speech, made on behalf of Euphiletus who lost his *politeia* as a result of the *diapsephismos* of 346–345, reveals a similar situation. Trying to prove that Euphiletus was entitled to *politeia* “by nature,” the orator, who was Euphiletus’s brother, referred to their mother as an *aste*, who was married to their father by engytic marriage: *ex astes kai gametes gynaikos* (D.H. *Isae*. 16–17 = *Isae*. 12.7).

Once the *diapsephismos* of 346–345 is seen to have had the same nature as earlier such scrutinies, the only question that remains is about why it was ordered by a decree of Demophilus. The immediate reason for the *diapsephismos* of 346–345 has been much debated, with suggested explanations including the establishment of an Athenian colony in Potidaea in the 360s and the need to conduct a public distribution of the *theorika khremata*, as proposed by Ugo Fantasia and Cristina Carusi.¹⁴² Either step required a verification of who held the status of *politai* “by nature” in order to claim the said benefits. One’s status as a *polites* “by decree” could be checked relatively easily by going through the records of the decisions of the popular assembly, and by consulting decrees inscribed on stelai that were set up in public places. It could be that the *diapsephismos* of 346–345 was conducted in connection with escalating tensions between Philip II and Athens, which only temporarily receded because of the peace of Philocrates in 346.¹⁴³ Finding itself in a potentially dangerous situation, the Athenian democracy verified the status of *politai* “by nature” as a means of reaffirming its power. However, regardless of the individual event or events that provoked the *diapsephismos* of 346–345, its purpose was the same as those conducted on previous occasions.

While we do not know the exact method used to conduct the *diapsephismos* of 510, after Cleisthenes established the deme system in Athens all subsequent *diapsephismoi* used the same routine of going through deme registers. Why was it conducted through checking deme rolls, if some of the *politai* “by nature,” such as women and minors, had no political rights and were not counted among the *demotai*? The answer to this question lies in the fact that after the establishment of *demokratia*, all male *gnesioi* of the legal age were not just *politai* “by nature” (as a result of Solon’s reforms) but were also members of one of the demes (as a result of Cleisthenes’s reforms). The legitimate birth of *demotai* was checked by verifying the deme membership of their fathers and of their mothers’ fathers (Arist. *Ath. Pol.* 55.3). Membership in a deme was enough proof of the legitimate birth not just of a male *astos* but also of members of his family. Instead of going through the records of *gene* or *phratries*, it was much easier for the Athenians to check the deme rolls. Demosthenes’s speech against Eubulides offers a good illustration of this situation: Euxitheus defended his status as a *gnesios* – and, therefore, his right to *politeia* “by nature” – with reference to the birth of his father

and mother, which he proved by providing testimonies of members of his father's deme and of the deme and phratries of his mother's relatives (Dem. 57.68–69). Someone who was not a *gnesios* lost both his deme membership and *politeia* and was “downgraded” to the status of an alien. The same Euxitheus, having been purged from the registers of his deme (Halimus), immediately lost his right to “share in the city,” or *politeia* (Dem. 57.1–2, 6). Verifying deme membership as a means of establishing the legitimacy of birth was also used in other situations. For example, a decree from an Athenian phratry, dated to the mid-fourth century B.C., specified that anyone who wished to be enrolled in this phratry had to provide the phratriarch with the name of his father and his *demos*, and the name of his mother and her (father's) *demos*.¹⁴⁴ The applicant was expected to prove that he was born from a *demotes* and a legitimate daughter of a *demotes*, which, in post-Cleisthenic Athens, meant that he was a *gnesios*.

Conclusion

Grants of *politeia* were accorded and revoked for specific political reasons, such as securing popular support for a new “constitution,” soliciting military help in a time of need, or offsetting a decrease in the number of *politai* “by nature” as a consequence of a political or military crisis. Opening or limiting access to *politeia* “by nature” similarly served to promote the interests of different political regimes. Both tyrannies and democracies either changed the principles of having *politeia* “by nature” – by imposing restrictions on the right to *politeia* “by nature” for *astoi* or by acknowledging the right to *politeia* “by nature” for certain non-*astoi* – or offered massive grants of *politeia* to foreigners and resident aliens. Either way, the new *politai* supported the political regime that had offered them this privileged status, being afraid to lose it. One such episode happened in Corcyra, where the partisans of Athens set slaves free and gave *politeia* to aliens in 410, thus striking a counter-measure against the multitude and power of the pro-Spartan exiles (Diod. 13.48.7).

Because the primary purpose of any *diapsephismos* was to verify that only *gnesioi* had the right to *politeia* “by nature,” *diapsephismoi*, as such, had no connection to any specific political regime. Even those who consider *diapsephismoi* to have been scrutinies of political rights have noted that their main aim was to verify one's legitimate origins.¹⁴⁵ There is, then, no valid reason to deny the existence of the *diapsephismos* of 510 on the grounds that at that time the Athenians still did not have demes of the type which Cleisthenes would introduce a few years later. We do not know how Solon organized a scrutiny when he set up his *politeia* (if we use this word in retrospect) in the early sixth century. Nor do we know how Cleisthenes conducted his verification once he allegedly restored the “*politeia* of Solon” to the “multitude” in 510–509 (Arist. *Ath.Pol.* 20.1), before introducing his political reforms. Probably on both occasions the origins of the *gnesioi* were verified by checking the registers of the *gene* and/or phratries, which might explain why Cleisthenes supposedly allowed existing *gene* and phratries to continue “on the ancestral custom” (*kata ta patria*), i.e., as they had existed in Solon's time (Arist. *Ath.Pol.* 21.6).

However, once Cleisthenes established *demokratia* (which has usually been dated to 508–507, even if the date of when the classical Athenian democracy emerged has been debated: see next chapter) – by allotting political rights to all male *astoi* of legal age, who then became members of demes – the status of *gnesioi* was checked through deme rolls. Hence, while the purpose of any *diapsephismos* was to verify that the right to *politeia* “by nature” belonged only to the *gnesioi*, thus reenacting the system that had been established in Athens by Solon, the *diapsephismoi* of the fifth and fourth centuries took the form of striking the names of non-*gnesioi* from deme rolls. If the person was not a *demotes*, he was not a *gnesios* and, therefore, could not claim to be a *polites* “by nature.” Since, in practical terms, the verification of the status of *politai* “by nature” took the form of a purge of the deme rolls, *diapsephismoi* turned out to be the tools of Athenian democracy that reserved political rights for the *gnesioi*. This understanding of *diapsephismoi* as political measures only emerged later, after the establishment of *demokratia*. However, it became ingrained in the mentality of the people of the fourth century: after he had been expelled from his deme as a result of the *diapsephismos* in 346–345, Euxitheus (Dem. 57.32) defended his deme membership and his right to *politeia*, with reference to Solon as the person who had established this law in such a “wise and democratic” fashion (*kalos kai demokratikos*) that the Athenians would then reenact it “again,” i.e., in 403–402. This later view has engendered the modern perception of *diapsephismoi* as scrutinies of citizen status. However, for many Athenians, the economic and legal privileges associated with *politeia* were much more important than the possession of political rights and, consequently, deme membership. Families whose heads had been deprived of *politeia* as a result of *diapsephismos* put forward their little children and appealed to the Athenian People with tears in their eyes, lamenting their fate and impending poverty because of the loss of the right to “share in the city.” The fact that they also lost political rights does not seem to have been of any concern to them at all.¹⁴⁶ The distinction between *politeia* as a social and legal status on the one hand and as a political status on the other was blurred as a result of Cleisthenes’s political reform, which will be the focus of the following chapter.

Notes

- 1 Apollodorus: Trevett (1992, 6, 10, 15, 124–154); Hamel (2003, 140). Phormio: Trevett (1992, 14).
- 2 E.g., Apollodorus of Cyzicus: Osborne (1983 (3–4), 30–31) (T 8); Phanosthenes of Andros: 31–33 (T 9); Heraclides of Clazomenae: 45–46 (T 27); Charidemus of Oreus: 56–58 (T 51).
- 3 Banking activity: [Dem.] 36.29, 30, Dem. 45.63; Din. 1.43. Euagoras: Isocr. 9.54, with D. M. Lewis and R. S. Stroud, in *Hesperia* 48 (1979), 180–193 and Trevett (1992, 161), who spoke of a “preponderance of bankers” among the known recipients of Athenian *politeia*. Theomnestus: [Dem.] 59.13. The quote: [Dem.] 59.89. Further evidence and discussion: Davies (1977–8, 119–120); Osborne (1983 (3–4), 142–144). The scrutiny of recipients of *politeia*: n. 75 below.
- 4 Menon: Dem. 23.199, with Osborne (1983 (3–4), 20–23) (T 1). Ostwald (1992, 308). On this *politeia* as “citizenship”: Whitehead (1977, 153–154); Davies (1977–8, 105–121); Sinclair (1988, 27). Pace Gauthier (1986, 127).

- 5 Xen. *Hellen.* 1.6.24; Aristoph. *Ran.* 693–694, with Schol. Aristoph. *Ran.* 694 = *FGrH* 323a (Hellanicus), F 25. The status of the “Plataean *politai*” and other *politai* “by decree”: [Dem.] 59.92, and pages 283–284 and 286, n. 14. The identification of their new status as citizenship: Fouchard (1997, 185–186); Poddighe (2003, 60–61, 2006, 8); Kamen (2013, 76–77).
- 6 Ostwald (1992, 308) with reference to “Archinus’ opposition to Thrasybulus’ bill enfranchising Lysias and other foreigners who had returned to Athens from Piraeus ([Plut.,] *Lys.* 835f-836a; cf. Arist. *Ath.Pol.* 40.2).” See also Aeschin. 3.195 and Schol. Aeschin. 3.195 [438ab] with, e.g., T. Alfieri, in *RIL* 104 (1970), 154–161; Austin (1994, 537); Poddighe (2003, 63–64).
- 7 Arist. *Ath.Pol.* 40.2, with Krentz (1986, 201); cf. [Plut.,] *Lys.* 835f on Thrasybulus’s proposal to grant *politeia* to Lysias, who first received it but then lost it because of alleged procedural errors. For the view that Lysias never had *politeia*, see page 121, n. 60. Lysias’s benefactions to Athens: Trevett (1992, 162). For an overview of the debate on the status of Lysias, see Forsdyke (2005, 201 n. 286) and next note. Xen. *Hellen.* 2.4.25.
- 8 [Plut.,] *Lys.* 835f-836a; Phot. *Bibl.* 262; this conclusion: Wilamowitz (1887, 117) (with n. 1); Kolbe (1921, 247–248). Cf. Xen. *Hellen.* 2.4.25: Lysias was a metic, not an alien (*xenos*). Therefore, it is not all that surprising that, having lost *politeia*, Lysias was not deprived of the “lesser privilege of *isoteleia*”: cf. Adak (2003, 219); Roisman and Worthington (2015, 130); see *I.Ephesos* 8.43–47: on *isoteloi* being promoted to the status of *politai* (86–85 B.C.; see n. 30 below). Pace Mathieu (1927, 96), with the idea that Lysias received *isoteleia* as soon as Thrasybulus’s decree was abrogated. Lysias’s right of *enktesis* has been acknowledged (Clerc 1893, 432) and rejected (Stelzer 1971, 155; Adak 2003, 235–239, 258). Finley (1951, 259 n. 103) has failed to solve the problem of whether Lysias, and his brother, had the right of *enktesis*, while Todd (2000, 6) mentioned the confiscation of Lysias’s property, but never raised a question about the legal status of that property.
- 9 Hyper. 5.31–32; Lycurg. 1.16, 41; [Plut.] *Hyper.* 848f-849a; Aps. *Rhet.* 1.75. E.g., Beloch (1884, 235) (an “ultra-revolutionary decree”); Whitehead (1977, 162) (“the classic revolutionary programme”); Osborne (1983 (3–4), 145) (“in conflict with the current law”). For this proposal as an offer of citizenship: Poddighe (2003, 45); Lape (2004, 5).
- 10 E.g., *IG II³* 378: Euphron, son of Adeas, from Sicyon, who participated in the Lamian war (323 B.C.) and *Syll.³* 386–387: Strombichos, a mercenary who joined the Athenians in their war for “freedom” (282–281 B.C.).
- 11 Diod. 20.84.3, 20.100.1 (Rhodes). *I.Iasos* 34 (Hellenistic period). *I.Smyrna* 573.103–104 (ca. 245–243 B.C.). *I.Ephesos* 2001.6–12 (300–297 B.C.). *IG IX.2*, 234 (= *ISE*, no. 96 = *SEG* 40, 486).1–3 (Pharsalus, ca. 250–200 B.C.) with the commentary in *SEG* and Gauthier 1985, 198–199. *SEG* 41, 625.2–4 (Phanagorea, 88–87 B.C.). See also, e.g., Xen. *Hellen.* 1.1.26: the Syracusans were known to enjoy the privileges of the status of “benefactors” (*euergetai*) and *politai* in Antandros because they had helped the people of Antandros to build a part of the city-wall and carry the garrison duty, and *Syll.³* 529.6–8: those who had fought on the side of the city during the war (Dymi, 219 B.C.).
- 12 Plut. *Qu. Gr.* 304bc; Phot. *Lex.* s.v. Σαμίτων ὁ δῆμος = Arist. fr. 575.
- 13 Mercenaries: Diod. 11.72.3. Other cities: Hdt. 7.156.1–3.
- 14 Euphron: Xen. *Hellen.* 7.3.8. Pausanias: Thuc. 1.132.4. *I.Illion* 25.32–34 (early third cent. B.C.).
- 15 See Diod. 16.82.4–5, who comes very close to labeling this a grant of the right of *enktesis*, with H. D. Westlake, in *CAH²* 6 (1994), 716 (“plots of land and citizenship were offered”). For interpreting this measure as a grant of citizenship, see Hennig (1994, 340–342); Robinson (2011, 91). For ethnics used as references to *politeia*, see chapter 3.

- 16 E.g., Sordi (1961, 50–52): Timoleon’s “program of colonization,” 72–74, 77–80 (a discussion of Timoleon’s reforms in Sicily in 339–338, which she examined separately from grants of *politeia* by Timoleon), and 105: on “two steps of the colonization,” in 343–342, after the liberation of Syracuse, and 339–338, after the victory over Carthage and the tyrants; Asheri (1971, 78–79) (on such *politai* in Syracuse, Cyrene, and Larissa as “nuovi coloni”); Günther (2012a, 9–19). Cf. Frigo (2007, 168); Asheri (1979, 145–158): on such developments as (re-)colonization and (re-)urbanization, which accompanied political transformations, but passing over the role of these people in local politics.
- 17 Polyae. 6.7.2. Gauthier (1985, 203), certainly referring to them as “citizens.”
- 18 *IG IX.2*, 517 (= *Syll.*³ 543 = Michel 41 = *ILS* 8763).2–3, 9–10, 26–27 (219 B.C.); tr. Walbank (slightly modified).
- 19 Habicht (1970, 275–276); F. Salviat and C. Vatin, in *BCH* 98 (1974), 256, 261–262; Baslez (1984, 303); Helly (1987, 229–230).
- 20 Scherberich (2012, 97–105) correctly rejected the theory of a demographic crisis as the reason behind Philip’s request, and identified the recipients of *politeia* not as Philip’s soldiers but as metics. However, Larissaeans were unwilling to accept new *politai* not only because of losing some land, as Scherberich believed, but also due to a prospective increase in the number of Philip’s supporters, since *politai* had the right to vote in popular assemblies.
- 21 *IG IX.2*, 234 = *ISE*, no. 96 = *SEG* 40, 486 (ca. 230–200 B.C.).1–4; J.-C. Decourt, in *ZPE* 81 (1990), 177.
- 22 *OGI* 229 (= Michel 19 = *I.Smyrna* 573 = *I.Magnesia am Sipylos* 1 = *StV* 3, no. 492). 99–103 (ca. 245–243 B.C.?).
- 23 *SEG* 9, 3 (= *JHS* 80, 1960, 94–95 = *ML* 5).31–33 (late seventh cent. B.C.) with Asheri (1971, 78).
- 24 Arist. fr. 498 and Helly (1987, 228), who compared (229–230) this *politographia* with that ordered by Philip V in Larissa later in the third century: *IG IX.2*, 517 = *Syll.*³ 543 = Michel 41 = *ILS* 8763 (219 B.C.).
- 25 Amit (1973, 98–99, 115–116) (and n. 181), with reference to *IG II*² 345 = *IG II*³ 345 (332–331 B.C.) and 351 = *IG II*³ 352 = *Syll.*³ 288 (330–329 B.C.). Discussing this evidence, Pečírka (1966, 82–83) asserted that “temporary and collective grant of *enktesis* for land and houses is improbable and without parallel.” Yet, if the right of *enktesis* made up a part of the grant of *politeia* to a group of people, this right could be awarded to many people at the same time; and if the grant of *politeia* was then revoked – like, evidently, in the case of the Plataeans, after their city was rebuilt, if we follow Amit’s suggestion – then the right of *enktesis* appears to have been of a temporary nature.
- 26 So also, e.g., Millett (1982, 224), identifying *politeia* with “citizenship.” Pace Gallo (2004, 220), who interpreted Diodorus’s words as meaning that although deprived of *politeia* such people retained their property. Details of the resettlement, including numbers: Baynham (2003, 25–28).
- 27 *Milet I* 3, 149.37–39 (187–186 B.C.?), with Peter Herrmann, in *Milet VI* 1, p. 184 ad l.38; Gauthier (2001, 126), interpreted this clause as meaning that the Pidaseans constituted a community which was both united to Miletus and separate from it at the same time, and that they continued to possess their own territory.
- 28 *Milet I* 3, 33b.10–12 and 33e.6–7 and 33f.6–10 (ca. 234–233 B.C.?). See Launey (1949, 277–278, 1950, 660–664); Robert (1969, 1439) (“between 230 and 220”); Hennig (1994, 340).
- 29 Diod. 16.82.6–7. For laws constituting the arrangement of any *politeia*, see chapter 3.
- 30 App. *Mithr.* 48; *I.Ephesos* 8.20–27 and 43–47 (86–85 B.C.) respectively, with Dmitriev (2005, 276).
- 31 The Thirty: [Plut.] *Lys.* 835f and Arist. *Ath.Pol.* 40.2. Philip II: Lycurg. 1.41; [Plut.] *Hyper.* 848f–849a. Hermo: Dem. 23.212.

- 32 E.g., Arist. *Pol.* 3.3.5, 1278a.30–35 (see n. 54 below). To my knowledge, the only person who provided this correct interpretation to the nature of *oliganthropia* has been Emily Grace (1974, 360 n. 15) (*gnesioi politai*); but see similar views expressed by Ste. Croix (2004, 243–244) (“shortage of citizens”); Helly (1987, 229–230): “the weakness of the body of free citizens”; and Grieb (2012, 107–126) (*politai*).
- 33 Diog. Laert. 2.26 (see page 50, n. 74); Gallo (2004, 222).
- 34 Phot. *Lex.* s.v. Σαμίων ὁ δῆμος = Arist. fr. 575 (see n. 12 above).
- 35 Athenae. 6, 271cd, referring to Theopompus (= *FGrH* 115, F 171). Arist. *Pol.* 2.6.12, 1270a.30–37.
- 36 Diod. 12.9.1–2 with Sakellariou (1989, 18): a grant of “political rights to foreigners.”
- 37 E.g., Lonis (1992a, 245, 247); Marasco (1981, 1, 250); Feyel (2009, 355–356, 360).
- 38 Plut. *Cleom.* 7.1 and 10.6, respectively. See, in general, Errington (2008, 99).
- 39 The former view: Errington (2008, 99). On this concept, see appendix 4. The latter view: Hodkinson (1986, 382).
- 40 On this, and also on the problem of the so-called federal citizenship, see preceding chapter.
- 41 *Hellen. Oxy.*, fr. 16.4 (Bartoletti) = fr. 19.4 (Chambers; Behrwald). Xen. *Hellen.* 5.2. 18–19.
- 42 The Five Thousand: Thuc. 8.72.1, 8.97.1; Lys. 20.13; Arist. *Ath. Pol.* 32.1–33.2. The Three Thousand: Xen. *Hellen.* 2.3.20; Arist. *Ath. Pol.* 36.1.
- 43 The first opinion: Lehmann (1987, 35 n. 5) (on the Five Thousand); Welwei (1992, 250) (on the Three Thousand). The second opinion: Ste. Croix (1956, 12). Cf. Arist. *Ath. Pol.* 30.3: the *boule* was to be elected by lot from the entire Five Thousand (cf. Thuc. 8.93.2), 31.2: the generals were to be elected from among all of the Five Thousand.
- 44 E.g., Isocr. 4.113, 7.67, 21.11; Aeschin. 2.77; Arist. *Ath. Pol.* 35.4 and 37.1.
- 45 In addition to standard works on that period, see also, for example, Cohen (1995, 239); Kapparis (2005, 77); Lape (2010, 265–266), with Shear (2011, 173, 181–182) (on the Thirty’s “lawlessness and madness”).
- 46 D.H. *Lys.* 32 and Lys. 34.3 = D.H. *Lys.* 33.
- 47 Dem. 18.132–133; Din. 1.63. A similar observation: Poddighe (2006, 19–20). On Antiphon as a “citizen,” see Gagarin (1996, 2 n. 11) (see page 124, n. 94).
- 48 Habicht (1997, 40); Baynham (2003, 23). The “hoplite census”: e.g., Gehrke (1978, 180–181).
- 49 Diod. 18.74.3; Athenae. 6, 272c = *FGrH* 245 (Ctesicles) F 1. See, e.g., Gehrke (1978, 178–179); Lehmann (1997, 79).
- 50 *SEG* 9, 1.2–6 (322–321 or 308–307 B.C.). J. A. O. Larsen, in *CP* 24 (1929), 361; Chamoux (1953, 223); see also Vatin (1984, 77–78); Laronde (1987, 87–89) (on the history of this text’s discussion), 227 (on this *diagramma* as granting “Cyrenean citizenship” to the children of Libyan women), 250–251.
- 51 *IG* XII.8, 264.8–10 (early 4th cent. B.C.?), with Koerner (1993, 270–272); *IG* IX.2, 1228 (= *ISE*, no. 108).13–20 (ca. 250–200 B.C.) with Moretti’s commentary *ad loc.*: 91 and 92 n. 7; Dem. 23.213.
- 52 E.g., Robinson (2011, 149) (on Byzantium). See Rhodes (1992, 76 n. 46) on Arist. *Pol.* 3.3.4–5, 1278a.26–34; cf. Baslez (1984, 101) on Arist. *Oecon.* 2.2.3, 1346b.27–29 (see below).
- 53 Lys. 34.3 = D.H. *Lys.* 33. For Lysias’s *politeia*, see [Plut.] *Lys.* 835f with Arist. *Ath. Pol.* 40.2, and page 121, n. 60.
- 54 Arist. *Pol.* 3.3.5, 1278a.30–35. See also Arist. *Pol.* 3.1.2, 1275a.3–5; 3.1.6, 1275b.4–8; 6.2.9, 1319b.7–11, and Arist. *Oecon.* 2.2.3, 1346b.27–29.
- 55 This view: Whitehead (1991, 135–136, 141–142, 150–154); Ostwald (1996, 50).
- 56 As has been pointedly reminded by E. Sandys, *Aristotle’s Constitution of Athens*² (London, 1912), 55 and Rhodes (1981, 188), διαψηφισμός is the modern correction for the papyrus’s δ(ια)ψημισμός(ν), whereas the word used for that procedure in 346–345 was διαψηφισις.

- 57 Arist. *Ath.Pol.* 13.4–5 and Rhodes (1981, 188). This dating: Manville (1980, 219); Rhodes (1997b, 525); Lavelle (2005, 72).
- 58 Arist. *Ath.Pol.* 13.5 with Holladay (1977, 41); Plut. *Sol.* 29.1, with Day and Chambers (1962, 93–96).
- 59 E.g., Welwei (1967, 427), who questioned the historicity of the *diapsephismos* of 510, but see his 1992, 2; Holladay (1977, 41); Giorgini (1993, 124).
- 60 Craftsmen: Pleket (1969, 43); Rhodes (1981, 188, 255). Mercenaries: Bicknell (1969, 34–37); Rhodes (1981, 188); Lewis (1997, 95); Baslez (1984, 81); Giorgini (1993, 125); Manville and Ober (2003, 66); Oliveira Gomes (2007, 78); Lape (2010, 200); Poddighe (2010, 289) (and n. 24 for bibliography).
- 61 The children of Pisistratus: Thuc. 6.55.1 and Arist. *Ath.Pol.* 17.2; Dionysius II: Diod. 16.6.2 (see page 51, n. 89 and n. 90, respectively). For *gamete* as a synonym for *engyete*, see page 43, n. 9.
- 62 Arist. *Pol.* 3.1.10, 1275b.37–38 (see next chapter). For this idea, see, e.g., Bicknell (1969, 34–35); Luzi (1980, 76–77); Rhodes (1981, 188); Stanton (1984b, 39); Cohen (1997, 73).
- 63 Cf., e.g., Stanton (1984b, 39–40): such people “realized that they might have to depend on the Alkmeonidai for the continuation of their citizenship.” Answering this question certainly depends on whether Cleisthenes proposed (and implemented) his reforms before or after Cleomenes and his Spartans came to Athens, and whether the reforms implemented by Cleisthenes directly corresponded with what he had promised to the Athenians (see page 244, nn. 30–32).
- 64 E.g., Busolt (1926, 946–947); Lipsius (1905–15, 283); Glotz (1928, 317); Pleket (1969, 59); Gauthier (1972, 78); Grace (1974, 359); Giorgini (1993, 124); Daverio Rocchi (1993, 59); Mossé (1995, 18); Rhodes (1997b, 525); Kapparis (2005, 92); Forsdyke (2005, 103); Poddighe (2006, 16); Oliveira Gomes (2007, 77); Feyel (2007, 21 n. 5); Harding (2008, 157–158); Feyel (2009, 115–116, 143–148); Blok (2013, 167); Forsdyke (2013, 231); Schmitz (2014a, 94–95); Grote (2016, 207).
- 65 Welwei (1967, 428–429); Feyel (2007, 21 n. 5); Pébarthe (2006, 180–182); Feyel (2009, 144). For denying the historicity of the *diapsephismos* of 510, see also Day and Chambers (1962, 118); Ruzé (1997, 354).
- 66 The historicity of this *diapsephismos*: Busolt (1926, 948); Rhodes (1981, 188); Fornara (1970, 243–246); Stanton (1984b, 39); Baslez (1984, 81); Manville (1990, 173–185); Hansen (1991, 95); Robertson (1992, 90); Ogden (1996, 53); Loraux (1997, 16); Anderson (2003, 41); Forsdyke (2005, 103); Oliveira Gomes (2007, 77–80); Lape (2010, 199–200). Cf. Ismard (2010, 81–83, 2011, 171).
- 67 Gomme (1937, 84–85) (for the word used in the papyrus, see n. 56 above). This and similar views: Lewis (1997, 95); Fornara (1970, 245); David (1986, 8) (510–509 B.C.). Ste. Croix (2004, 145) (with n. 39), 169, 236, and Hedrick (1984, 216–217) thought that this *diapsephismos* was conducted in phratries, probably because of the opinion that phratries embraced people with political rights (or citizens, if we use the modern term) before Cleisthenes’s introduction of the deme system. Pace Ismard (2010, 82–83).
- 68 E.g., A. Friend, in *G&R* 2nd ser., 6 (1959): 46–57; Pleket (1969, 41–42); Welwei (1983, 164–166); Stein-Hölkeskamp (1989, 140–142) (although pointing to certain limitations of this approach); Bleicken (1994, 26–28); Queyrel (2003, 41–42); Lavelle (2005, 81–85, 219–221). See very correct observations on this topic by Giorgini (1993, 108–109), who, however, turned instead to a discussion of aristocratic clans.
- 69 E.g., Isocr. 9.54, [Dem.] 36.30, 59.89 (see n. 3 above).
- 70 Harp. Δ 50 = *FGrH* 324 (Androtion) F 52 = 328 (Philochorus) F 52 (= F 52, Costa) (see n. 139 below).
- 71 Liban. *Hypoth. Dem.* 27.1. Aeschin. 1.77. For this use of ethnics, see chapter 3.
- 72 E.g., Hdt. 1.59.6; Arist. *Ath.Pol.* 16.2 and 8, but see 22.1; Thuc. 6.54.6, with Ehrenberg (1925, 85); Robertson (1986, 175); Ober (1989, 67); Stockton (1990, 21); Giorgini

- (1993, 112–113); Bleicken (1994, 30); Cartledge (2007, 164); Reboton (2009, 12–13). This view has been challenged on the basis of another passage from the *Athenian Politeia* (22.1), which asserted that the laws of Solon had been neglected during the tyranny; see McGlew (1993, 121–122); Camassa (2011, 44–45) for an overview of this debate. The view that Solon's laws failed to be observed under the tyranny evidently resulted from the later retrospective vision of Solon as the founder of the Athenian democracy (see preceding chapter), which would, thus, present his laws as incompatible with the Pisistratid regime.
- 73 Mixing these practices in modern analyses of Pisistratid policy: Stahl (1987, 197, 200); Oliveira Gomes (2007, 78).
- 74 These two practices have typically been mixed together, and the usual interpretation of Pisistratus's policy has been that he gave "citizenship" to foreigners: e.g., Giorgini (1993, 124). See also n. 76 below.
- 75 Requirement for benefactions: *IG I³* 102.6–8 (410–409 B.C.), *IG II²* 17.19–25, 19.6–7 (394–393 B.C.); [Dem.] 59.89 (see n. 3 above), 105; *Milet I* 3, 40 (273–272 B.C.); *I.Iasos* 42 (late fourth cent. B.C.). Requirement for having *politeia*: Dem. 23.212; *Milet I* 3, 149.10–12 (see page 118, n. 4). See Lipsius (1905–15, 284–285); Feyel (2009, 44–48, 221–236).
- 76 Cf., e.g., Todd (1990, 223) s.v. "dokimasia": "newly enrolled citizens, whether by birth or by naturalization"; Kapparis (2005, 75) on *diapsephismos* as applied to aliens; Lape (2010, 197): "the *dokimasia* served as a trial of citizen identity." See also n. 74 above.
- 77 E.g., Busolt (1926, 946); Feyel (2007, 37, 48); Feyel (2009, 144).
- 78 E.g., Arist. *Pol.* 5.8.7, 1311a.12–13 (on tyrants typically not trusting the people and stripping them of arms) and 5.9.19, 1315a.38. Cf. the skepticism of Pleket (1969, 26 n. 29); Kienast (2005, 90 n. 108), and an attempt to ascribe this measure not to Pisistratus but to Hippias: Day and Chambers (1962, 99), with Kienast, *loc.cit.*
- 79 E.g., Berve (1967, 51–52); Queyrel (2003, 43); De Libero (1996, 64–65) saw this disarmament as one of Pisistratus's most effective measures to preserve his rule. For Pisistratus as the friend of the people: e.g., Pleket (1969, 27); Lavelle (2005, 160–162). For this measure as aimed against the "aristocratic habit of wearing arms": Glotz (1904, 398).
- 80 The Five Thousand: Arist. *Ath.Pol.* 31.2. The Three Thousand: Xen. *Hellen.* 2.3.20 and 41; Lys. 12.40, 95; Arist. *Ath.Pol.* 37.1–2.
- 81 E.g., Busolt (1926, 940); Lipsius (1905–15, 473–474); Müller (1899, 818); Ledl (1909, 26); Wolff (1944, 79 n. 167); Mathieu (1927, 98); Gerhardt (1933, 63); Erdmann (1934, 378); Kahrstedt (1936, 61–62); Billheimer (1938, 10); Vatin (1970, 120); Humphreys (1974, 88); Hignett (1970, 343–347); Davies (1977–8, 106); Gould (1980, 45–46); Patterson (1981, 1); Just (1989, 17); Cataldi (1983, xvii); Welwei (1983, 232); Bleicken (1994, 38, 65); Stockton (1990, 62–63); Sealey (1990, 12–14); Todd (1993, 177); Fornara and Samons II (1991, 72–75); Loraux (1993, 65 n. 149); Brulé (1995, 137–138); Hartmann (2002, 53, 56, 73); Blok (2004, 2); Schmitz (2007, 97); Brun (2010, 92–93); Osmers (2013, 163); Kennedy (2014, 14); Wijma (2014, 16); Cohen (2015, 71) ("two citizen parents"). Cf. Rhodes (1992, 75–77, 1994, 566–567); Ste. Croix (2004, 238–239). Victor Chapot (1929, 8) has been the only person, to my knowledge, who pointed to Plutarch's use of broad definitions and identified his "Athenians" as the *astoi*.
- 82 General discussions of this law: Ledl (1909, 34–38); Humphreys (1974, 93–94); an overview: Podlecki (1998, 160–161).
- 83 E.g., Busolt (1926, 940); French (1994, 71); Roy (1999, 4–5); Queyrel (2003, 159); Schmitz (2007, 28, 97); Wallace (2007, 80).
- 84 Rhodes (1992, 77); Prandi (1982, 118); Sealey (1990, 13–14); Stein-Hölkeskamp (1989, 225); Carlier (1992, 111–112, 114).
- 85 Humphreys (1993, 24); cf. 25: "In general such marriages (i.e., with foreign women, S.D.) were excluded after 451 by Pericles' citizenship law." How could they be

- excluded “in general” (cf. Kahrstedt 1934, 63)? A similar view: Lape (2004, 6–7); Piepenbrink (2010, 102).
- 86 Davies (1992, 299); Braund (2000, 114–115); Cataldi (1983, xvii).
- 87 Hignett (1970, 345), and a similar view in Welwei (1983, 232, 235–236); Stein-Hölkeskamp (1989, 224–225); Kamen (2013, 101); Phillips (2013, 139); Glazebrook and Olson (2014, 71); Ober (2015, 200).
- 88 Sinclair (1988, 24); Ostwald (1992, 307–308); for the same idea, see also Gauthier (1972, 116); Hartmann (2002, 73–74); Lanzillotta (2004, 388); Kamen (2013, 49–50); Wijma (2014, 158); Azoulay (2014, 82).
- 89 Rhodes (1992, 76); see also, e.g., Davies (1992, 292); French (1994, 71).
- 90 Lape (2004, 70); Blok (2009c, 141, 146) (“a fundamental change”); Wohl (2010, 247). Cf., for example, attempts to trace the influence of this law on Athenian sculpture (Roy 1999, 5), architecture (Blok 2007, 309–326), and painted images (Golden 2015, 149).
- 91 Fuks (1953, 93); Osborne (1983 (3–4), 150); cf. Kennedy (2014, 13–14, 18–19) (“the law passed in 451 BCE banned citizenship for *metroxenoi*, but most likely did not ban marriage between metic women and citizen men”). See also, e.g., Scafuro (1994, 162): “by Perikles’ citizenship law of 451/0 B.C. and its re-enactment in 403/2, a son was required to be born of two Athenian parents in order to be a citizen,” 166; Davies (2004, 19) (“those descended from citizens: after 451/0 in the female line too”); Cohen (2005, 33) (“women’s citizenship defined by birth . . . women too were members of the Athenian polis”), 35 (“Citizen status on both sides is, of course, the prerequisite to a legal marriage for Athenians. This is another legal setting in which it is crucial that the citizen status of the mother, as born of two Athenian citizens, is established”); cf. Blok (2009a, 89): “Considering that birth from two Athenian parents was the normal prerequisite for citizenship, it should come as no surprise that both men and women were counted as citizens”; Patterson (1994, 201); Pomeroy (1997, 39).
- 92 Ste. Croix (2004, 236); Sealey (1990, 12); Patterson (2009, 52); Biesecker (1992, 103); Podlecki (1998, 159); Fantham *et al.* (1994, 74). See also Lacey (1968, 100); French (1994, 75); Kapparis (1995b, 109); Piepenbrink (2010, 101). Cf. Carey (1995, 416 n. 33) (“bastards with an Athenian father before 451/0 or two Athenian parents after 451/50 were entitled to citizen rights”); Davies (2004, 19): on Athenian citizens as “those who descended from citizens (after 451/0 in the female line too”); Bernard (2003, 129) (after the law of Pericles, the *aste* became a part of the “civic reproduction group”); Lape (2010, 234); Blok (2004, 19); Henry and James (2012, 85) (“before this law was passed, in 451/0 BCE, citizenship required only a citizen father”), and Phillips (2013, 175).
- 93 Cf., e.g., Glazebrook (2005, 38): “with Perikles’ citizenship law . . . the status of a woman ἄστὴ took on greater importance”; Forsdyke (2013, 230): the law of Pericles “gave new prominence and importance to citizen women.”
- 94 Humphreys (1974, 88); Carey (1995, 416 n. 33) (see n. 92 above); Omitowoju (2002, 22, 42); Lape (2010, 8, 19–21): “the Periclean law was establishing a bilateral nativity requirement for citizenship”; Damet (2012, 143); Blok (2013, 166): “Perikles’ Citizenship Law famously changed Athens’ citizenship birth criteria from one to two citizen parents”; cf. P. J. Rhodes, in *CR* n.s. 47 (1997), 100: Pericles’s law “created a new type of bastard.” Müller (1899, 818); Glotz (1904, 340); Thompson (1968, 61); Carlier (1992, 113, 116); Queyrel (2003, 178); Bertazzoli (2003, 212, 216, 222); Bearzot (2005, 78); Azoulay (2014, 81), with a convenient summary of opinions in Biesecker (1992, 101–103).
- 95 Just (1989, 55–60), correctly and for precisely this reason, and Ogden (1996, 151): “Bastards of two Athenian parents were denied citizenship after Pericles’ citizenship law because they were denied it beforehand, from as early as Solon . . . and because the citizenship law did not change their status,” followed by Damet (2012, 144); cf. Poddighe (2006, 15–16): on this principle as being in use since the sixth century. For

the ongoing debate about the status of *nothoi*, including their alleged citizenship, see appendix 1.

- 96 Patterson (1981, 3–4, 2005, 283): “his law provided the first standard Athenian criterion for entry into the demes and phratries.” Similar views: Sealey (1984, 130); Stadter (1989, 334–335); Carlier (1992, 113); Rhodes (1992, 77 n. 51) (see page 156, n. 2); Daverio Rocchi (1993, 58); Hartmann (2000, 25); Azoulay (2014, 82): “the Athenian citizens were . . . collectively laying claim to a distinctive attribute, birth, which had, in principle, been the preserve solely of the aristocracy,” thus mixing the ideas of the nobility of birth and the legitimacy of birth, and passing over the fact that the latter idea had already been introduced by Solon.
- 97 E.g., Manville (1990, 176); Fornara and Samons II (1991, 74–75); Meyer (1993, 112); Hartmann (2002, 52).
- 98 For this view as having already been expressed in other works, see n. 95 above.
- 99 E.g., Jacoby (1954a, 470); Brisson *et al.* (2000, 10, 15); Moreno (2007, 300), who, however, explained Pericles’s law of 451–450 by the distribution of the new *kleroi* of Euboea as part of Pericles’s conquest in the previous year.
- 100 Rhodes (1992, 77, 1997b, 525). See also Queyrel (2003, 179).
- 101 Glotz (1928, 317); Carey (1991, 85 n. 10); Feyel (2007, 21 n. 5); Harding (2008, 114–115), with an overview of opinions in Ste. Croix (2004, 233–234).
- 102 Welwei (1983, 236). For accepting or denying a connection between Pericles’s law and the *diapsephismos* of 445–444, see also Glotz (1928, 317); Rhodes (1981, 332–333); Feyel (2007, 21 n. 5).
- 103 Nenci (1964, 173–179), with reference to Aristoph. *Vesp.* 715–718 and Schol. Aristoph. *Vesp.* 718 = *FGrH* 328 (Philoch.), F 119. However, the text of Aristophanes contains no specific chronological indications, whereas the archonship of Lysimachus, which was mentioned by Philochorus as the time when Psammetichus sent his gift to Athens, has been dated to 445–444: Develin (1989, 85) (“Lysimachides or Lysimachus”); Osborne and Byrne (1994, 292): s.v. Λυσίμαξιδης.
- 104 E.g., Walters (1976, 132); M. H. Hansen, in *GRBS* 19 (1978), 143; J. Bleicken, in *Historia* 28 (1979), 166–167 and Bleicken (1994, 13, 37–38, 44, 48); Welwei (1983, 197, 1992, 185); Baslez (1984, 93); Touloumakos (1985, 31, 36); K. A. Raaflaub, in *Classica et mediaevalia* 40 (1989), 36–37, 39; Brulé (1995, 157–161); Meier (1996, 53); Lotze (1997, 89–96); Queyrel (2003, 76); Tsigarida (2006, 10 n. 4); Cartledge (2007, 165); Raaflaub (2007, 105–154, 2013, 337); Ober (2015, 197): the period from 462 to 450 B.C. Cf. Martin (1974, 23–29), 34, who did not necessarily regard this period as the development of “democratization,” but still saw it as bringing forward more equality, as a result of infighting among the aristocratic clans.
- 105 E.g., Forrest (1966, 207); Starr (1989, 39); Raaflaub (1998, 90); Farrar (2007, 171–172); Hall (2014, 256); Giangliulio (2015, 24, 40–48).
- 106 E.g., Welwei (1999, 42).
- 107 Arist. *Ath. Pol.* 22.5. E.g., Wade-Gery (1958, 105–106); Forrest (1966, 207); Hansen (1991, 44–45); Rhodes (1996, 1027); Welwei (1999, 42). See Badian (1971, 1–34).
- 108 E.g., Welwei (1983, 161, 173). For the procedure of this scrutiny, see Rhodes (1972, 176–178, 1981, 542).
- 109 Arist. *Ath. Pol.* 26.2; Badian (1971, 9–10) (who insisted that only the first census class was originally eligible for the archonship); Rhodes (1996, 1026); Welwei (1999, 43); Raaflaub (2007, 115, 137). Cf. P. J. Rhodes, in *JHS* 92 (1972), 126.
- 110 Kahrstedt (1940, 10–12), with reference to the earliest texts mentioning the prytans: *IG* I² 10 = *IG* I³ 14 and *IG* I² 16 = *IG* I³ 10, dated by Kahrstedt and Lewis to the 460s–450s.
- 111 Humphreys (1983, 246–247) (with reference to *IG* I² 22 = *IG* I³ 21: ca. 450–449 B.C.) ascribed the introduction of the jury-court to Ephialtes. On the introduction of the pay to city councilors in the 420s, see V. J. Rosivach, in *ZPE* 175 (2010), 145–149

- 112 Was there a connection between the radicalization of the Athenian democracy and the appearance of Pseudo-Xenophon's *Athenian Politeia*, whose *terminus post quem* has been established in the 440s (see page 118, n. 2)?
- 113 Wiles (2001, 49) saw a different connection of this measure with the development of Athenian democracy.
- 114 An overview of opinions: Walters (1983, 327–328).
- 115 Cf. another example of this “strange spectacle of the kind of collective madness that sometimes seizes historians and prevents them from seeing simple facts as simple facts,” in the so-called reform of Telesinus (Arist. *Ath. Pol.* 22.5): Badian (1971, 27–28). See Thompson (1968, 59), who put Pericles's measure among the Athenian *diapsephismoi*, and Osborne (2010, 244–245): “I suggest that the evidence for any marked effect on Athenian marriage patterns is so scant that we would be wise to regard the law as bringing about only limited changes in the situation with which it directly concerned itself,” who saw this law as “primarily a symbolic statement” (251).
- 116 E.g., Hartmann (2002, 52); Patterson (2005, 278).
- 117 For this view, which implies that the events in 450–451 and 445–444 were parts of the same process, see, e.g., Lipsius (1905–15, 473–474); Busolt (1926, 940–941, 949); Fuks (1953, 93); Lacey (1968, 158); Davies (1977–08, 106, 118); Gould (1980, 45–46); Walters (1983, 316, 322); Whitehead (1986b, 109); Just (1989, 17); Sealey (1990, 14–15); Rhodes (1992, 76); Meyer (1993, 113); Daverio Rocchi (1993, 61); Todd (1993, 177); Ogden (1996, 77, 173); Cohen (1997, 77); Vêrilhac and Vial (1998, 56–57); Lambert (1998, 30, 48); Roy (1999, 4); Kapparis (1999, 27, 2005, 73); Hartmann (2000, 26, 2002, 56); Poddighe (2006, 16); Liddel (2007, 314); Ogden (2009, 113); Kamen (2013, 62); Kennedy (2014, 19, 97).
- 118 The former explanation: e.g., Kahrstedt (1934, 63); Sealey (1984, 131); MacDowell (1993, 360, 367); Ogden (1996, 75, 77). The latter: e.g., Walters (1976, 135, 138); Patterson (1981, 145–146).
- 119 Athenae. 13, 577b. See also Dem. 57.30; Isae. 8.43–45. For the status of the younger Pericles, see appendix 6.
- 120 [Dem.] 59.104, 106 (see page 286, n. 14); *FGrH* 342 (Craterus), F 4.
- 121 E.g., Isae. 12.9 (*ex astes kai gametes gynaikos*); [Dem.] 59.60 (*ex astes gynaikos kai engyetes kata ton nomon*). E.g., *genos*: And. 1.127; Isae. 7.15–16; [Dem.] 59.59–60, 63; *phratry*: Isae. 7.15–16, 8.18–19; Dem. 57.54; [Dem.] 59.122. See chapter 1. Aristophan: Athenae. 13, 577b (see n. 119 above).
- 122 Carlier (1992, 115); M. J. Osborne, in *Ancient Society* 7 (1976), 110 n. 14; MacDowell (1993, 360–361); Walters (1983, 327 n. 40). See also Müller (1899, 786–811); Billheimer (1938, 11); Harrison (1968, 26); Thompson (1968, 67); Osborne (1983 (3–4), 152); Sealey (1984, 112); Vêrilhac and Vial (1998, 59); Hartmann (2002, 56); Carawan (2008, 399–400).
- 123 E.g., Gomme (1937, 88); Andrewes (1961, 13); Podlecki (1998, 159); Brisson *et al.* (2000, 10); Osborne (2010, 246–247).
- 124 Correctly, Fantasia and Carusi (2004, 189): in 346–345, the demes verified and made decisions “sulla condizione di *gnesios polites* di ciascun membro,” even though Fantasia and Carusi identified *polites* with citizen.
- 125 See references in n. 117 above and, e.g., Sealey (1984, 112 n. 2).
- 126 Aristoph. *Av.* 1660–1666 (see page 47, n. 48).
- 127 Cox (1998, 172, 173) (the quote), 205–206: “the legitimization of *nothoi* at the end of the Peloponnesian war.”
- 128 *IG* XII.8, 264.8–10; cf. Koerner (1993, 270–271), who suggested that the regulation concerned women from Thasos who married elsewhere; *IG* IX.2, 1228 (= *ISE*, no. 108).13–20: “the *polis* of the Phallanians gave *politeia* to the Perrhaebians, the Dolopians, the Aenianes, the Achaeans, the Magnetes, and the people born of Phalannian mothers (καὶ τοῖς ἐκ τῶν Φαλλαναίων), if they registered and passed the scrutiny according to the law,” with L. Moretti's commentary *ad loc.* 91 and 92 n. 7. For both texts, see n. 51 above.

- 129 Cf. Ogden (1995, 227): “It was subsequently [i.e., after the law of Pericles] the bastards born by non-citizen mother that came to dominate the conception of bastardy at Athens.” Furthermore, it can be said that it was the status of the mother that determined the conception of legitimacy in Athens and, as it appears, other places; cf. Herodotus’s description of the situation in Lycia (1.173.5): “if a woman who is an *aste* marries a slave, her children will be considered legitimate (γενναῖα τὰ τέκνα νενόμισται), but if an *astos*, even the foremost of them, should marry a foreign wife or a concubine, his children are born with *atimia* (ἄτιμα τὰ τέκνα γίνεται)” (tr. W. Blanco, slightly modified), with Asheri *et al.* (2007, 195), who established a parallel between the situation as described in this text and in Athens. There is no valid reason to follow Blok (2004, 18–20), who criticized Ogden for not understanding the nature of the problem, while herself making an attempt to connect matrilineality with the inheritance of citizen status, i.e. political rights, and who rejected the parallel between the situations in Athens and Lycia, because, again, she interpreted descent in political terms.
- 130 Diog. Laert. 2.26; Arist., fr. 93, with page 50, nn. 74–77.
- 131 On that amnesty, see And. 1.80–81, [Lys.] 6.37–41, Arist. *Ath. Pol.* 39.6, and the law quoted in And. 1.99 with MacDowell (1962, 128–129) (“no prosecution may now take place for an offence committed before 403/2”), and (1963, 78) (“no one is to be prosecuted for an offence against the laws which was committed before 403/2”).
- 132 E.g., Dorjahn (1946, 42); Loening (1987, 21–22); Wolpert (2002, 32–33, 76–84).
- 133 Canevaro and Harris (2012, 124), and n. 131 above. On the decree of Demophantus, see below.
- 134 On this amnesty connected with deleting the record of the *atimoi* and restoring their rights, see Carawan (2013, 47–48) (and n. 9, with bibliography), 62–63, 181. Cf. M. Canevaro, in *JHS* 135 (2015), 226: “Carawan fails to recognize that . . . it was not those that had been disfranchised under the Thirty but rather those that had stayed and collaborated with them that . . . needed protection.”
- 135 [Dem.] 59.16–17, with Canevaro (2013, 187).
- 136 Whitehead (1986b, 109) (with bibliography); Hunter (2000, 18).
- 137 Carey (1992, 3, 93, 124), with similar ideas in Lacey (1968, 112); Baslez (1984, 94); Lonis (2000, 80); Walters (1983, 321); Niku (2007, 69). This is the reason why the trial of Neaera did not make a case against *xenia* but was a part of the legislation on marriage: Kapparis (1999, 31, 2005, 78). For the expression *paidopoiesthai* as pointing to legitimate children (*gnesioi*), see, e.g., [Dem.] 59.122 and Diog. Laert. 2.26 with Arist., fr. 93 (see page 50, n. 74).
- 138 See Liban. *Hypoth. Dem.* 27.1 (see n. 71 above) and also Aeschin. 1.86, 2.182.
- 139 Harp. Δ 50 = *FGrH* 324 (Andr.), F 52 = *FGrH* 328 (Philoch.), F 52 (= F 52, Costa). Tr. Harding (2008, 157) (modified).
- 140 E.g., Just (1989, 15); Carey (1992, 12); and n. 64 above.
- 141 Isae. 12; see also Aeschin. 1.78 and D.H. *Isae.* 16–17.
- 142 Colonists: Hansen (1991, 95); Hartmann (2002, 66). Fantasia and Carusi (2004, 196–206) (with bibliography).
- 143 Cf. a certain Antiphon, who, having been deprived of the Athenian *politeia* (by the *diapsephismos* of 346–345, as it appears), went over to Philip II’s side and was allegedly about to set the Athenian dockyards on fire: Dem. 18.132–133; Din. 1.63 (see n. 47 above).
- 144 *IG* II² 1237 (= *Syll.*³ 921).114–121: *to onoma patrothen kai tou demou kai tes metros patrothen kai tou demou pros ton phratriarkhon* (396/5–350 B.C.).
- 145 E.g., Ogden (1996, 122): “(although) the deme was the institution that formally bestowed citizenship, the speakers of the Attic orators when attempting to establish their title to citizenship concentrate much more vigorously on proving that they have been accepted by their phratry than on proving that they have been accepted by their deme.”
- 146 E.g., Lys. 20.34–35 and 21.25. Cf. the penalty of *atimia* for *politai* “by decree” (e.g., [Dem.] 59.6), who did not necessarily have political rights in the city. For questioning the theory that the punishment of *atimia* was limited only to “citizens,” see Dmitriev (2015a, 37–39, 45–50).

6 Cleisthenes and the emergence of the political community

Any attempt to define the Athenian political community will inevitably raise a question about what constituted political rights – or citizenship, to use the modern term – in ancient Athens and in Greece in general. There are at least three reasons why answering this question is challenging. One is that modern studies generally pass over the fact that people in ancient Greece enjoyed diverse social and legal privileges, regardless of whether or not they had political rights. Even those who lacked political rights still belonged to various social groups, including the *astoi* (members of the kinship community), the *politai* (members of the legal community), and resident and visiting aliens, who enjoyed varied rights and privileges on an individual basis in the Greek cities (see chapter 3). The second reason for this situation is the dominant modern perception of social organization in ancient Greece, which divides its free population into citizens and non-citizens, and largely treats this division in a static fashion. Without examining the complexity and history of Athenian social development, the modern approach has been to assert that citizenship simply emerged in Athens in connection with Solon's reforms, and typically to identify either *astoi* or *politai*, or both groups simultaneously, as Athenian citizens (see chapter 4). Finally, the third reason is that the modern understanding of what constitutes political rights differs from that of the ancient Athenians, who, for example, did not count participation in and voting at the popular assembly or sitting on juries among their political activities (see chapter 5).

The social and political development of sixth-century Athens not only shaped its major social groups, or communities, but also transformed their relationship with each other. Solon's reforms gave equal social and legal status (or *politeia*, in the retrospective interpretation of the Greeks) to all Athenian *astoi* by virtue of their birth, or "by nature," while differentiating the political rights of the *astoi* according to the amount of their personal agricultural income. As we shall see below, after the tyranny of the Pisistratids in Athens was over, Cleisthenes not only restored *politeia* to all *astoi*, he also made all adult male *astoi* equal politically. Specific circumstances, such as laws and regulations established by different political regimes, also played an important role in the relationship of the kinship, legal, and political communities and, accordingly, in defining the individual status of Athenians. For example, someone who was a member of all three communities

under democracy could lose his political rights because of a census introduced by an oligarchy, as happened during the oligarchic regimes of the Four Hundred and of the Thirty in the late fifth century. This chapter will examine the ways in which Cleisthenes organized the Athenian political community and formed its relations with the kinship community of the *astoi* and the legal community of the *politai*.

1. Status and participation

The possession of political rights in ancient Greece has been associated with enrollment in one or more social organizations, such as demes, phratries, tribes, and/or *gene*. According to the more popular view, Athenian citizens were *demotai*, i.e., those who were registered in demes after Cleisthenes's reforms.¹ Therefore, in the opinion of Arthur Ledl, Albert Billheimer, Ulrich Kahrstedt, Margherita Guarducci, Charles Hignett, and many others, the enrollment of *demotai* in other organizations, such as trittyes and tribes, followed automatically.² Others, including John K. Davies and Henri Van Effenterre, thought that citizens were registered in tribes, so that, if we use Jacob A. O. Larsen's phrasing, registration in tribes secured "active citizenship."³ Still others linked "ancient Greek citizenship" with membership in phratries (Luisa Prandi, Karl-Wilhelm Welwei),⁴ in demes and tribes (Ugo E. Paoli, Peter J. Rhodes),⁵ in demes and phratries (Georg Busolt, Douglas M. MacDowell, Charles W. Hedrick, Jr., Stephen D. Lambert),⁶ or in tribes and phratries (Pierre Carlier).⁷

The modern perception of the political importance of these organizations has been derived from the identification of individual kinship and political status. It is often thought that, since the possession of political rights in ancient Athens depended on the legitimacy of origin with that legitimacy verified with reference to phratry membership, phratries were divisions of Athens' political organization. However, the legitimacy of an individual status could also be verified with reference to that person's membership in other social bodies, such as *gene*, which did not count as political organizations. Nor were kinship and political status identical, as revealed by the position of female members of the Athenian kinship community: although they were members of *gene* and, possibly, phratries, Athenian *astai* lacked political rights. Available evidence, therefore, offers no reliable support to consider phratries and *gene* as subdivisions of Athens' political organization, although their membership reflected the legitimacy of one's origin.

Not surprisingly, another outcome of this approach has been a common view that it was the termination of membership in such entities that led to the loss of political rights.⁸ In addition, the diversity of opinions about which of those organizations actually gave political rights to individuals has required an explanation. Some have acknowledged that being a citizen implied membership in different organizations, depending on the chronological period under consideration. Others have marked geographical variations, whereas some others have concluded that citizenship was acquired through membership in all such organizations. Emil Szanto's pioneering work on "ancient Greek citizenship" asserted that "a new citizen could use his citizen rights only as member of a tribe, *demos*, phratry,

syngeneia, thousandth or hundredth, *genos*; as such, he was fully legally capable," even though, in Szanto's opinion, "the citizenship of demes characterized the clearest form of communal citizenship." Fritz Gschnitzer, too, regarded ancient Greek "citizens in the true sense of the word" as those who belonged to tribes and other social organizations.⁹ "Citizenship" has been connected with membership in *genos*, phratry, and tribe by Jacqueline Bordes, and in tribe, phratry, deme, and *kome* by Raoul Lonis.¹⁰ According to Stephen D. Lambert, membership in phratries, tribes, *trittyes*, and demes was "necessary for a native-born Athenian citizen" in the post-Cleisthenic period; Peter J. Rhodes asserted that after the reforms of Cleisthenes, Athenian citizenship was to be "based" on membership in demes, trittyes, and ten tribes; Sarah B. Pomeroy thought that "admission to the phratry, along with deme membership, was the principal route to full membership in the *polis*"; whereas Edwin Carawan proposed that "a man could not claim citizenship in the deme without first confirming his place in the phratry," while "once the boy was enrolled in the *genos*, he had automatic admission to the phratry."¹¹

However, the approach that pegs the possession of political rights on membership in one or several social organizations, and also makes membership in one such organization dependable on membership in another, reveals several flaws. The most obvious of them is that questions about which of these organizations actually gave political rights and how these organizations were related to each other (or, more specifically, whether enrollment in one of them led to membership in some other/s or all the rest) have never been convincingly answered and, it seems, never will be. The reason for this is simple: the available evidence does not provide such information; or, in other words, our evidence appears to be so confusing that it gives no clear answer to these questions. Some texts put enrollment in a phratry chronologically before a deme registration, whereas we see a reversed order in at least one other text.¹² Since the evidence cannot be changed, we need to change our approach to the evidence.

Another problem is that most of the evidence usually adduced in such debates concerns *politeia* and pertains to *politai*, who have been a priori identified as "citizens." Similar to Szanto's reference to "citizens," the argument of Humphreys and Lambert for connecting "citizenship" with membership in a phratry was based on the evidence dealing with *politeia*,¹³ whereas the "citizens" associated by Marcel Piérart with membership in tribes – i.e., not in demes – in Miletus and Priene were, in fact, *politai*.¹⁴ This derails the whole examination because *politai* included women, children, and other people with no political rights (see chapter 4). At least to some extent, geographical variations also explain this situation, because the organizations available for enrollment to recipients of *politeia* differed from city to city.¹⁵ It could be that different names were used by organizations of the same type.¹⁶ Even if this was true in some cases, however, such evidence was still only concerned with the *politai*, i.e., people who did not necessarily have political rights. Yet another problem is that since the modern vision of the political organization of Athens has been based on what we know about the outcome of Cleisthenes's reforms in the late sixth century, attempts to define the status of "ancient Greek citizens" have focused on examining membership in

demes, tribes, and other social organizations in Athens. It is important to note, however, that the mode of interaction among these organizations remains unclear both before and after Cleisthenes's reforms. In the time before Cleisthenes, political competency was allegedly associated with enrollment in a *genos* or a tribe¹⁷ or, according to the majority opinion, a phratry.¹⁸ But if phratries were political organizations of Athenian citizens before Cleisthenes, and if Cleisthenes's reforms left phratries without any modifications, as some ancient authors tell us, then it was phratries, not demes, that should have formed the basis of political organization in post-Cleisthenic Athens.¹⁹ Some have lamented our ignorance of the "legal criteria" for citizenship before Cleisthenes's reforms. But the same has also been said about the period before the so-called citizenship law of Pericles.²⁰ Such doubts challenge the view that it was Solon who established citizenship in Athens.²¹

To sum up briefly, rationalizing the possession of political rights in the city by membership in that city's social organizations does not explain how political rights were defined in ancient Athens either before or after Cleisthenes's reforms. A reference to someone as a deme member served as sufficient proof to confirm this person's political, legal, and social rights in post-Cleisthenic Athens. However, contrary to the modern view, which holds membership in a deme (and/or other social organizations, for that matter) as a necessary condition for individual political rights, the possession of these and other rights was only a consequence of this person's status, just like his membership, or a lack of membership, in those organizations. What, then, determined his status and rights in the city and, accordingly, his membership in that city's social organizations? This crucial factor appears to have been a person's origins.²² As noted above, the sixth and fifth centuries saw a struggle by many Athenian *astoi* who wished to be entitled by law to what was acknowledged to have belonged to them by right of birth, or "by nature," as a result of Solon's reforms. Plato observed that the equality of origin (*isogonia*) drove people to seek equality of status "by law" (*kata nomon*), just as they had it "by nature" (*kata physin*). According to Isocrates, people with political rights behaved like "tyrants" with respect to those who, although entitled to *politeia* "by nature," were deprived of it by law and, therefore, lived like "aliens" in their own native city.²³ Even if Isocrates applied the word *politeia* in retrospect, the overall meaning remains the same: the "tyrants" took away the rights of those who were entitled to these rights "by nature," i.e., by origin, and thus turned *politai* into aliens in their own city. In the autumn of 403, Lysias spoke against depleting Athens' military forces (infantry, cavalry, and archers) – with a clear reference to the proposal, made by a certain Phormisius, to limit the right of *politeia* only to those who possessed land in the city. According to Dionysius of Halicarnassus, about five thousand people would then have lost their *politeia*. This number would certainly have included some of those who had received the right to own immovable property together with the grant of *politeia* from the city of Athens. However, most of these five thousand were landless *astoi*, that is members of the Athenian kinship community. By speaking against this proposal, Lysias reaffirmed that all "the Athenians" (i.e., the *astoi* as *politai* "by nature") should have *politeia* by law, following the end of the tyranny of the Thirty. Rationalizing along the same lines,

Aristotle referred to the Athens of his time as the state in which all *politai* – i.e., all those entitled to the status of a *polites* “by nature” – actually partook in *politeia* (*hemin de pantes hoi politai metekhousi tes politeias*), that is, their natural right to *politeia* was not limited by any legal restrictions.²⁴

This evidence leads to several observations. One of them is that the criteria defining anyone’s political and legal status in ancient Greece always existed because these criteria depended directly on a person’s origins. The *gnesioi* were supposed to receive this status “by nature,” according to Solon’s reforms: he both established the status of the *gnesioi* as the people who were born from two *astoi* in engyetic marriage, and allotted equal social and legal status, or *politeia*, to use a later concept applied in retrospect, to all *gnesioi* by virtue of their birth. Any new legislation, or *nomothesia*, therefore, focused on the relationship between the kinship community and *politeia* – either all *astoi* had *politeia* “by nature” or only some of them did, or not only *astoi* but also non-kinsmen, or people of “impure birth,” could have this privilege as well. In Athens, the latter situation was remedied by scrutinies (*diapsephismoi*), which effectively restored Solon’s principle that only the *gnesioi* could have *politeia* “by nature,” i.e., by virtue of their origins, even though the understanding of what it meant to be a *gnesios* transformed over time (see previous chapter). In real life, as Aristotle made clear, someone who was acknowledged a *gnesios* and therefore a *polites* “by nature” under one *politeia* might not necessarily have been considered as such under another *politeia*.²⁵

If someone lost his status as a *polites* “by nature,” his membership in various city organizations was terminated as well. Hence, as we saw above, *gennetai* rejected the enrollment of non-*gnesioi* children into *gene*, and *diapsephismoi* stripped membership in demes and other organizations from people who failed to prove their status as *gnesioi* of their *politeia* “by nature.”²⁶ Such evidence illustrates that membership in social organizations of the city did not determine the person’s status in that city, as has often been assumed, but, just the other way around, the person’s status – which was pegged on his legitimate origins and other legally imposed restrictions, if any – entitled him or her to be enrolled in these organizations. Another observation is that, contrary to the widespread view, membership in some such organizations was not a necessary prerequisite for “citizenship,” nor was it necessary in order to have membership in other social organizations.²⁷ What was required, in fact, was having the status of a *gnesios*. The speech against Neaera ([Dem.] 59.122) refers to enrolling children in phratries and demes as a result of their legitimate birth, not because of their membership in some other organization. Hence, recounting the story of how Phrastor wanted to introduce his son in his phratry and *genos*, Apollodorus only mentioned the negative reaction of the *gennetai* who challenged Phrastor to swear that the boy was his own son by an *engyete*-wife ([Dem.] 59.59–60). After Phrastor refused to swear to this and, thus, failed to enroll the boy in his *genos*, he could not enroll him in his phratry either – not because membership in a *genos* determined membership in a phratry but because the failure to enroll in a *genos* signaled this boy’s “impure birth,” which also closed entry into Phrastor’s phratry and certain other social bodies for him. The same was true in cases of adoption, which were examined in the first

chapter. Since the adopted children were *gnesioi*, they became members of the phratries and demes of their adoptive fathers (Isae. 14, 16, 20; [Dem.] 43.11–15). This is also the reason that, although the post-510 *diapsephismoi* were conducted in demes, such scrutinies were aimed at checking whether *demotai* had legitimate birth and, accordingly, whether they qualified as *politai* “by nature.” If someone turned out to be a non-*gnesios*, he lost his *politeia* “by nature” and membership in the *genos*, phratry, *demos*, and other social bodies to which he may have belonged, as we saw in the preceding chapter. The verification of a person’s birth, therefore, determined what rights he had in the city, and, accordingly, into which social bodies, if any, he could enroll. No indications exist that membership in one such organization was necessary for becoming a member in another.

2. Cleisthenes’s reorganization of Attica

It is from this perspective that we should approach the reforms of Cleisthenes, a prominent Athenian politician of the Alcmaeonid clan, who has been considered the founder of Athenian *demokratia*. This word is usually interpreted as a combination of “people” (*demos*) and “power” (*kratos*). In the narrow sense, which reflected the post-Cleisthenic Athenian political mindset and vocabulary, *demos* referred to members of the villages (demes), or *demotai*. Following Cleisthenes’s reforms – either immediately afterward or some time later; opinions differ, as we have seen – it was only the *demotai* who had political rights in Athens.²⁸ This situation is well illustrated by the scrutiny of candidates for offices, or *dokimasia*, which the *Athenian Politeia* described as follows:

The questions put in examining qualifications are, first, “Who is your father and to what deme does he belong, and who is your father’s father, and who your mother, and who her father and what his deme.”²⁹

Cleisthenes’s reforms still raise several mutually connected problems. One of them is that the date of his reforms falls either before or after Cleomenes and the Spartans came to Athens, depending on whether we follow Herodotus’s or Aristotle’s chronology.³⁰ A compromise opinion has been that Cleisthenes declared his intentions before, but did not implement his reforms until after Isocrates and Cleomenes, together with his Spartans, had been expelled from Athens.³¹ It is possible, then, that Cleisthenes’s original plan of reforms, if there were any, could have been (much) different from what he eventually implemented and/or that parts of Cleisthenes’s reforms were introduced at different times.³²

A closely related problem is the way in which Cleisthenes organized the demes: a debate of long duration has been waged over whether his demes were social or territorial organizations. The adherents of the latter view argued that each deme had clearly defined borders.³³ Their opponents reasonably objected that it was impossible to lay out – or verify, in the case of existing villages – the borders of 139 entities, especially within a short period of time.³⁴ Among others, Ernst Badian, who was a man of rich imagination and a good, if very personal, sense

of humor, remarked, “the picture we are invited to construct is rather charming: Kleisthenes, in an evening in a taverna, presiding over a small number of knowledgeable village elders and deciding, perhaps over wine mixed with water, after drawing up a complete register of all villages in Attica, which of them should be made constitutional demes and which should be attached to those thus favoured.”³⁵

The idea of territorial borders for Attic demes, however, continues to find supporters. They either focus on the earliest period of Cleisthenes’s deme organization or on the fourth century and later times. While the latter evidence goes beyond the chronological limits of this book, it has produced interpretations that can also be applied to the earlier period. Nicholas F. Jones resurrected the view that Attic demes gradually acquired territorial borders, arguing that they were eventually conceptualized as both “constitutional” and territorial with fixed geographical limits encompassing all their inhabitants. Since this evidence belongs to the fourth century, the transformation of demes into territorial entities was allegedly a reaction to either a rigid focus on the citizen minority in constitutional demes, or to a growing bureaucracy and rising boundary disputes, or to later conflicts between demes over grazing land.³⁶

Jones’s evidence included a *horos*-stone (*IG* II² 2623), restored by its editor, Johannes Kirchner, as ὅρος Π[ε]ραίων [χώρ]ας and interpreted as the *horos* of the deme’s territory;³⁷ several so-called rupestral inscriptions, which were found throughout Attica and published by Traill, who linked them with boundary disputes between demes in connection with the reorganization of the Athenian tribal and deme system in the late fourth century;³⁸ and, finally, evidence that was either newly found or reinterpreted since the publication of Traill’s book, which Jones organized into four groups: (i) *horoi* and rupestral inscriptions held by some as markers of demes’ territorial borders; this interpretation remains a matter of individual preference; (ii) evidence for “localizing properties with reference to a deme,” including the payment of the *enktesis* tax, which, in fact, shows just the opposite ([Dem.] 50.8 and *IG* II² 1214; see nn. 111 and 112 below): several demes contested the right to collect this tax from the same plot of land, each, therefore, claiming that this land made up a part of its territory; (iii) information on “isolated farms and unassigned nucleated settlements”; and (iv) evidence for metics who lived in demes’ territory and participated in their activities, which actually offers no support to the idea that demes had territorial borders.

The view that Attic demes had territorial borders has also been supported with reference to inscriptional texts that show that demes were comprised of not just *demotai* but also of people of other social status who lived in Attic demes and participated in their activities from the mid-fifth to the late third century.³⁹ However, this well-known fact does not prove that demes had fixed territorial borders. The theory of territorial demes was rejected as going beyond the evidence, while Jones’s most important text, *IG* II² 2623, has been reconsidered by Stephen D. Lambert, who suggested a “house” ([οἰκ]ίας) instead of “territory” ([χώρ]ας) and interpreted this text as a *horos* that referred to the “house of the Piraeans.”⁴⁰ Offering this new restoration is unnecessary if the stone marked a portion of the territory that belonged to the deme, rather than the entire territory of the deme.⁴¹ Since

this was a property of the deme, the *demotai* could either lease this land, as we see in Piraeus and other Attic demes,⁴² or collectively use it for some purpose.⁴³

The idea of territorial borders of early Attic demes was recently supported by Gerald Lalonde on the basis of four considerations:⁴⁴ (i) a demarch's duties concerned residency and landed property within a single deme; (ii) the official *oikon en*-formula was used for metics, and the so-called Scambonidai decree referred to metics as making up a part of the people who lived in that deme; *IG I³ 244.8–9*: *ἡ[κάστοι] Σκαμβονιδ[ῶν καὶ] τὸς μετοίκ[ος λαχ]ῆν* (ca. 460 B.C.); (iii) a demarch collected *eisphora* taxes and recruited liturgists on the deme level; and (iv) the law, quoted in [Dem.] 43.57–58, which Lalonde interpreted as establishing the duty of the demarch to “pick up and bury any corpse in the deme within the day of the death.”⁴⁵ As we have seen in the case of the arguments offered by Jones for the fourth century and later times, the first three of Lalonde's arguments can be challenged by the evidence regarding demes' social and economic organization. Metics and some other non-*demotai* were organized by demes without being put on deme registers, while land in an Attic deme could also be held by people who did not belong to that deme: these could be *demotai* who were registered in other demes or non-*demotai* who received the right of *enktesis*.⁴⁶ Finally, the law quoted in [Dem.] 43.57–58 not only shows that the demarch did not pick up and bury the bodies of people who died in his deme, as Lalonde's interpretation of this law seems to imply, but also – and this is a crucial point to which I shall return – that members of different social groups were associated with a deme through their personal connections: slaves through masters, freedmen through their former masters, and free people through their relatives. The task of a demarch was to ascertain the status of the dead person by establishing his relationship with members of the deme. Instead of supporting the idea of a deme as a territorial entity, this law points to deme membership – or, more broadly, deme affiliation – as defined through a personal relationship of some sort, not through residence within the deme's territorial borders.

Lalonde's backing for the idea of territorial borders of Attic demes served to support his interpretation of one of the rupestral *horoi*, *IG I³ 1055.B*, which was found on the southern edge of the Hill of Nymphs, in south-western Athens (fig. 10 and 11), as the demarcation of the border between the demes of Melite and Collytus.⁴⁷ However, he conceded that no definitive conclusions could be reached about the purpose of *IG I³ 1055.B*, and that his tentative reconstruction of the border between the two demes was based on his interpretation of other evidence. Interestingly, Lalonde admitted to the possibility that *IG I³ 1055.B* was a debt security marker,⁴⁸ which, once again, suggests that such stones did not mark the borders of demes but of property leased by demes. C. Edward Ritchie's observation (1984, 767) that “there are no known *horoi* which delimited or identified the Attic demes” still holds true.

Corresponding discussions, it appears, often mix demes' “territoriality,” which can hardly be denied, and demes' precise territorial borders, for which there exists no definitive evidence.⁴⁹ It is the cumulative force of Lalonde's arguments that makes scholars accept the idea of the territorial nature of (early) Attic demes, or

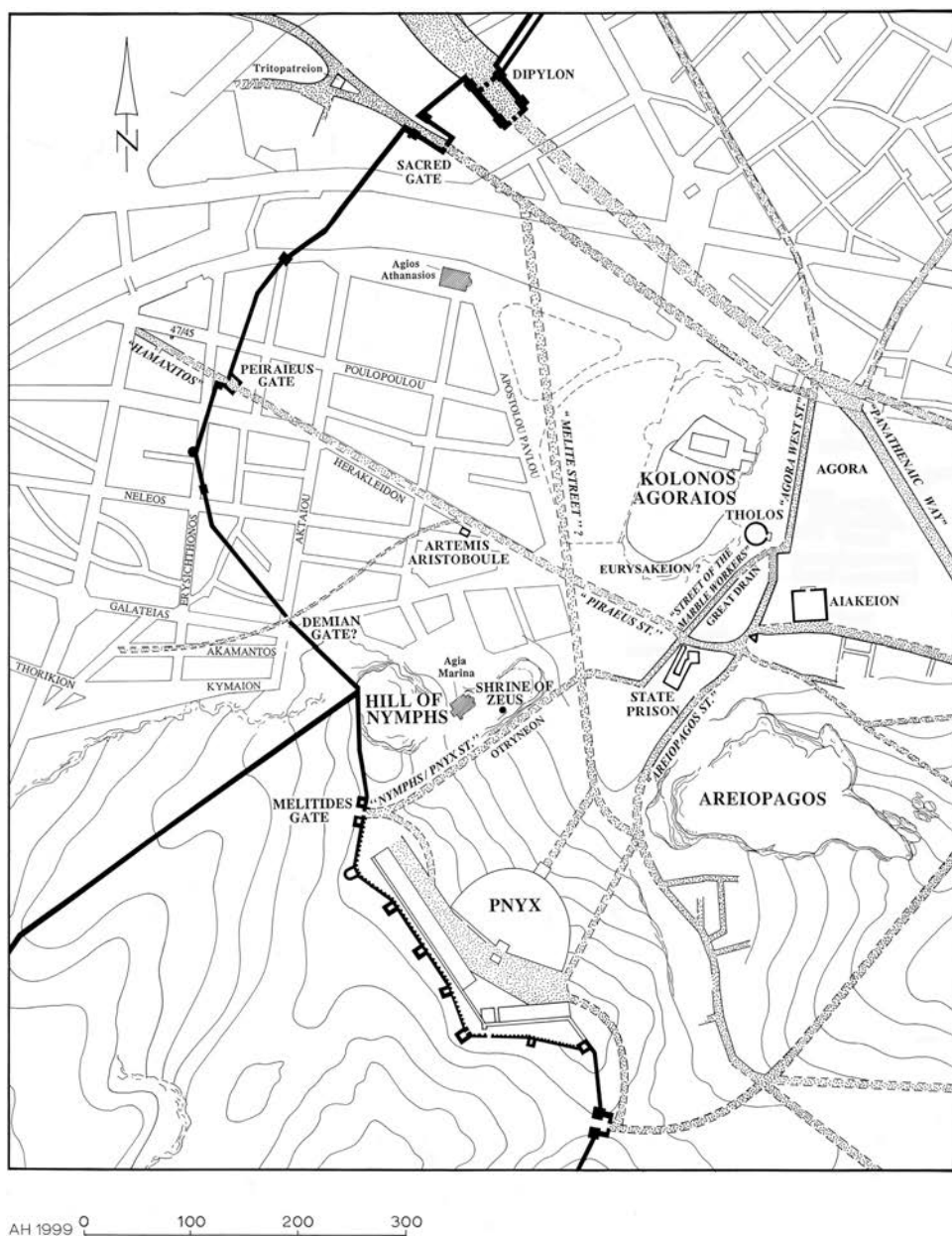


Figure 10 A map of western Athens with the Hill of Nymphs.



(a)



(b)

Figure 11 A photo (a) and a drawing (b) of the boundary stone (*horos*) IG I³ 1055.B from the southern edge of the Hill of Nymphs.

at least think that the demes were conceptualized as more than just organizations for *demotai*. These scholars point to important public duties performed by women in Attic demes, and to the participation of metics and other social groups in the religious life of Attic demes, thus speaking of demes not only as political but also

as religious units.⁵⁰ These well-known facts, however, have little to do with the issue of demes' alleged territorial borders. Cleisthenes evidently established the demes as social groups, which were defined by those who became members.⁵¹

Who were these people? The dominant view has been that Cleisthenes enfranchised everybody in Attica. Thus, in Ernst Badian's interpretation, Cleisthenes "simply asked that all free men living in the demes be put on the registers as citizens, for this is what 'fellow-*demotai*' must mean. For the moment, there were to be no resident aliens or freedmen left in Attica."⁵² This approach, however, runs into at least two immediate challenges. One of them is that, although this perception might look radically different from the vision of Cleisthenes's demes as territorial entities, it actually offers a very similar approach: assigning membership in individual demes required verifying the residence of all Athenians and, concomitantly, the borders of all demes. Therefore, if every free resident of Attica became a member of the deme system, we might as well say that demes were organized as political units on the territorial principle.⁵³ The other challenge to this approach is that Cleisthenes would not have been able to so easily introduce outsiders, such as resident aliens and freedmen, into the core of the Athenian political system. It is only natural that some, like Kenneth R. Walters (1983, 333), wondered how Cleisthenes "could have gotten away with enfranchising a great number of foreigners and slaves all at once." But if Cleisthenes organized demes as social groups that only included some local residents, then another question necessarily arises about the principle he used to determine who were to be counted among the *demotai*, i.e., those who were registered in demes, and who were not, i.e., those who were affiliated with demes. Curiously, the corresponding studies have failed to highlight this issue, in spite of its fundamental importance.⁵⁴ The only obvious method of selecting *demotai*, to which nobody could object, was membership in the kinship organization. Cleisthenes used the same premise as Solon had earlier in the sixth century, but he took it a step further. He not only gave the Athenian *astoi* equal legal and social status, or *politeia*, by virtue of their origins, as Solon had when he turned all the *astoi* into *politai* "by nature," but he also gave them equal political rights, or at least this is how his reform was retrospectively understood in later times.

Cleisthenes's tribal reform

Similar to Solon's rearrangement, Cleisthenes's reforms concerned not only the overhaul of Attica's political system, but also the relationship among individuals' kinship, social, and political status. His reorganization of Attica changed the overall fashion in which its population was organized, even though some things remained the same. According to Aristotle, Cleisthenes kept the existing *gene* and *phratries* "according to the ancestral custom" (*kata ta patria*).⁵⁵ These words of Aristotle go against the view of those who think that Cleisthenes wanted to undermine the power of the *genos*, i.e., in the same way that Solon had allegedly had a similar aim.⁵⁶ The reason for this stance has stemmed from the modern identification of individual kinship status and political status in Athens. However, although

political rights depended on a person's legitimate birth as a *gnesios*, which entitled him to membership in the kinship community of the *astoi*, it does not follow that the kinship community and the political community were identical. On the one hand, only adult male *gnesioi* had political rights and deme membership by virtue of their birth (if no further census restrictions were established). On the other hand, non-*gnesioi* recipients of *politeia* "by decree" also started to be enrolled in demes at some time, as we shall see below. The words of Aristotle mean, therefore, that Cleisthenes preserved, first, the principles of the organization of the kinship community – as open only to the *gnesioi* – and, second, the rule of Solon that only the *gnesioi* were *politai* "by nature," or by virtue of their origins. This explains Aristotle's reference (*Ath. Pol.* 20.1) that Cleisthenes restored *politeia* to the "multitude" (*apodidous to plethei ten politeian*) before eventually establishing *demokratia*. As de Ste. Croix has perceptively observed – even though his premises and inferences differed from mine – the interpreters of this text and of Arist. *Ath. Pol.* 21.2 typically make a mistake by "taking the word *politeia* in these passages to mean *civitas* (citizenship) and not *respublica* (in the sense of having a share in the control of administration of the State)."⁵⁷

At this time – after the long period of the Pisistratid tyranny, followed by a brief outburst of aristocratic infighting – all the *gnesioi* were, once again, *politai* "by nature," i.e., in accordance with the system laid down by Solon before Pisistratus established his rule over Athens. This step, which undoubtedly secured broad popular support in Athens for Cleisthenes, is what Herodotus meant by his famous phrase that Cleisthenes "took the people in partnership" (*ton demon prosetairizetai*).⁵⁸ However, this was not yet democracy, because, as was argued in chapter 4, Solon's *politeia* linked the political status of individual *astoi* with the amount of their personal agricultural income, and, although they all were *politai* "by nature," some of the *astoi* – such as the thetes and, probably, the *zeugitae* – had no political rights in the system Solon established in Athens.

Cleisthenes's next step was to provide all *astoi* with equal political rights by turning the existing demes into political organizations. This was a departure from Solon's system, which differentiated the political status among the *astoi*.⁵⁹ The corresponding information is limited and diverse. There is not much inscriptional evidence about demes, nor about any of Athens' other social organizations for that matter, for approximately a century after Cleisthenes. We first see the use of demotics in inscriptions from Attica in the fifth century B.C.⁶⁰ Plutarch (*Arist.* 13.3) refers to the demotics of some of those who attempted to overthrow the democracy in 479, and his information is corroborated by the evidence from the ostraca (Rhodes 2000, 123). Nor do we know for sure if Cleisthenes introduced the so-called classical Athenian democracy or only laid down its foundations. According to Aristotle (*Ath. Pol.* 26.2), the *zeugitae* and thetes only received full political rights in the mid-fifth century. Such evidence has produced a well-known debate about whether democracy emerged in Athens immediately, as a result of Cleisthenes's reforms in the late sixth century, or became "radicalized" during the subsequent half century. Regardless of the outcome of this debate, since deme membership was a necessary prerequisite for occupying political offices and

positions on the city council in post-Cleisthenic Athens, the usual understanding has been that only *demotai* had political rights after Cleisthenes's reforms.⁶¹ Hence the modern belief arose that Cleisthenes based the political power (*demokratia*) of the Athenian people (*demos*) on the activity of the demes (*demoi*)⁶² and, in this way, instituted the political equality of the Athenians, even though some restrictions concerning the right to occupy certain public offices – for example, those of the treasurers and generals – survived.⁶³

However, the establishment of the deme system was only one part of Cleisthenes's reforms. His emphasis was, in fact, on the tribal system, which Aristotle described as follows:

[H]e enrolled in his tribes (*ephyleteuse*) many aliens and freedmen (*xenous kai doulous metoikous*). The dispute as to these is not about the fact of whether someone was a *polites* (*estin ou tis polites*), but whether he received it wrongly or rightly.⁶⁴

Elsewhere, Aristotle calls such people *neopolitai*, or “new *politai*,” and shows that their *politeia* resulted from their incorporation into the tribal system.⁶⁵ James H. Oliver appears to have been exceptional in his belief that Aristotle's *ephyleteuse* meant that Cleisthenes created a separate tribe (*phyle*) for aliens and freedmen. I find it impossible to subscribe to this idea. If this had been the case, Aristotle would have phrased his information differently.⁶⁶ Others have uniformly interpreted Aristotle's reference as designating the grant of “Athenian citizenship” to those people.⁶⁷ The only major disagreement, it seems, has been about who these *neopolitai* actually were. The “aliens” have been identified as foreign mercenaries, whereas the “freedmen” have generally been presented as the “Pisistratid clientela,” that is, the people who had been “protected by the tyrants,” but then – as Bicknell says – “all of them were disqualified from citizenship by the oligarchs on the grounds that they were racially impure.” A similar opinion has been expressed by Gomme, who saw “no reason for doubting either the expulsion or the alleged reason – impure birth,” and others. Thus, they identified at least some of those “aliens and freedmen” with people who had lost their *politeia* because of the scrutiny (*diapsephismos*) in 510. Still others, like Charles W. Fornara, have argued that Aristotle's text has no implication that “Cleisthenes' extension of the franchise to slaves and aliens was a reflex of some prior purge of them from the citizen rolls.”⁶⁸

Stanton interpreted the words of Aristotle in the sense that “if Aristotle is not assuming that Cleisthenes made citizens of resident aliens, there is no point in raising the question of justice.” However, the question of justice could be raised in connection with both the grant of *politeia* “by decree” to the resident aliens who had offered no benefactions to Athens (whereas benefactions were normally a necessary condition for such grants) and the grant of *politeia* “by nature” to those who had been acknowledged as people of “impure birth,” i.e., as non-*gnesioi*, and had thus been deprived of their *politeia* by the scrutiny of 510 (because only the *gnesioi* were entitled to *politeia* “by nature,” i.e., by virtue of their birth).⁶⁹

As noted in the preceding chapter, “impure birth” and “foreign birth” carried different meanings: the latter referred to foreigners who came and settled in Athens, some of whom received *politeia* “by decree,” whereas “impure birth” categorized those who were born in Athens of a mixed parentage, so that their birth did not qualify them for *politeia* “by nature.” It could also be that some people of “impure birth” were children of those foreigners who settled in Athens during the Pisis-tratid regime.⁷⁰ If the Plataeans obtained a grant of Athenian *politeia* “by decree” in 519 and if they and other *politai* “by decree” had the right to arrange engy-etic marriages with Athenian *astai* and, as a result, produced legitimate (*gnesioi*) children (see page 286, n. 14), then the Pisistratid mercenaries probably had the same rights: grants of *politeia* to mercenaries as a typical feature of ancient Greek politics was examined in the preceding chapter. As *politai* “by decree,” they could father legitimate children who were thus entitled to Athenian *politeia* by virtue of their birth, even though only one of their parents belonged to the *astoi*. The rule of Solon, which was confirmed in 510 and then reinstated by Pericles in 451–450, held that only *gnesioi*, as the people who were born in engyetic marriage, were counted as *politai* “by nature.” The status of the Plataeans and other *politai* “by decree” created a loophole in the sense that their children by Athenian *astai* also counted as *gnesioi*, which Cleisthenes seemingly used when he enrolled many aliens and freedmen in his newly organized tribes. Hence the problem of justice, as noted by Aristotle: some saw *gnesioi* as only those who were born from two *astoi* in engyetic marriage, whereas others counted the children born in engyetic marriages between *astai* and *politai* “by decree” as *gnesioi* as well. Contrary to the usual perception, however, while Aristotle’s words have been seen as referring to a grant of Athenian citizenship to such people, there is absolutely no evidence that they were registered in Cleisthenes’s demes.⁷¹ His “new *politai*” were only enrolled in tribes, which prompts us to take a closer look at his tribal reform.

Cleisthenes left *gene* and phratries “as before,” while his deme system was a new creation. The pre-existing social bodies that he transformed were the tribes. From this point of view, it would be correct to say that the “centerpiece” of Cleis-thenes’s reforms was his tribal reorganization.⁷² What makes the difference is the interpretation of that reorganization. Herodotus and Aristotle say that Cleisthenes replaced four old tribes with ten new tribes.⁷³ However, it was not just about their numbers. Pre-Cleisthenic tribes were kinship organizations. Even in later times the four tribal leaders (*phylobasileis*) continued to be elected from “those of noble birth” (*ex eupatridon*), and resided together with the *Basileus*, or the King.⁷⁴ Cleisthenes’s tribal reform set up territorial tribes.⁷⁵ The change in the character of Athenian tribes as a result of Cleisthenes’s reforms is best illustrated by the intro-duction of new tribal eponyms (fig. 12), as described by fifth-century authors:

Cleisthenes divided the Athenians into ten tribes, instead of four as formerly; he called none any more after the names of the sons of Ion – Geleontes, Aegi-cores, Argades, and Hopletes – but invented for them names taken from other heroes, all native to the country (*epikhorion*) save only Ajax; him he added, albeit an alien (*xeinon*), because he was a neighbor and an ally.

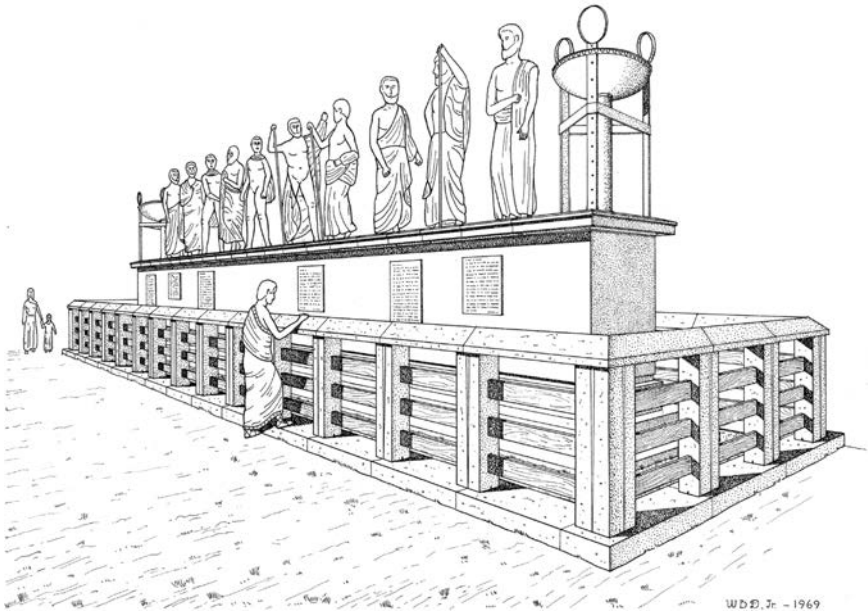


Figure 12 A reconstruction of the *peribolos* enclosing the statues of the ten eponymous tribal heroes of Athens.

In his third book, Cleidemus says that Cleisthenes established ten tribes instead of four, and consented to divide them into fifty parts, which were called *naucraries*.⁷⁶

Out of the known nine sanctuaries of ten tribal eponymous heroes, eight were located in the city of Athens although not all of the heroes were of local Attic origin: Ajax was venerated on Salamis, with Hippothoon honored in Eleusis.⁷⁷ The identification of some of the original ten tribal eponymous heroes has been questioned by those who have pointed out that, according to Pausanias's description, the Marathon monument in Delphi evidently included Theseus, Codrus, and the "otherwise unknown Phileus" (Kearns) among the eponymous heroes, instead of Ajax, Hippothoon, and Oineus, who were known to have been used as tribal eponyms in Athens by Cleisthenes.⁷⁸ Theories put forward to explain why the group of Athenian eponymous heroes in the Marathon monument was not similar to the traditional Athenian version fail to convince. James G. Frazer (1913, 5, 266) followed the opinion of E. Curtius that "statues of Ajax, Hippothoon, and Oeneus formed part of the trophy originally, and either they have been carried off before the time of Pausanias, or the mention of them has dropped out of his text." However, the statues were not just carried off, neither was the mention of them simply dropped out of Pausanias's text; we actually see different personalities in their place. Also, if statues were replaced, one would expect that Ajax, Hippothoon, and Oeneus (whom we see among tribal

eponymous heroes in the late classical period: [Dem.] 60.27–31, and in Pausanias's own times: 1.5.2) were used to replace Codrus, Theseus, and Neleus, and not the other way around, which is what Pausanias's words actually mean. Changing or adding eponymous heroes should not have been a problem for the Athenians, especially since the Marathon monument appears to have been updated: statues of new tribal eponymous heroes – Antigonus, Demetrius, Ptolemy II, and Attalus I – were added in the late fourth and third century, when they became the eponymous heroes of the newly established tribes.⁷⁹ The view of Pierre Vidal-Naquet (1981, 404) is equally unsatisfactory; he explicated the presence of Codrus, Theseus, and Neleus on the Marathon monument by the ideology of Cimon's times. The problem here is there is no way Cimon could have pushed for such a radical alteration in the list of the eponymous heroes. Corresponding debates have failed to include a red-figure ram's-head rhyton – dated to about 480, i.e., relatively close to the time of the battle of Marathon and the building of the Marathon monument in Delphi – which shows the gathering of Athenian heroes as symposiasts, including Theseus and Cecrops, among several others who remained unidentified (Fig. 13).⁸⁰

The difference between the lists of eponymous heroes is not as important for the current examination, however,⁸¹ because by no means were all members in any of these groups of pure Attic descent: at least according to some versions, even Codrus and Theseus were born elsewhere, while Pandion's connection with Megaris has already been noted.⁸² Regardless of whether our evidence comes from ancient authors writing about Athens, the Marathon monument, or the red-figure rhyton mentioned above, the new eponymous heroes reflected a dissociation between autochthonous descent and tribal membership: Athenian tribes ceased to be a division of the Athenian kinship organization in the late sixth century.⁸³

A transition from kinship-based tribes to territorial tribes has been regarded as characteristic of the overall development of ancient Greek cities, in spite of the acknowledged scarcity of the available relevant evidence. According to Anthony Andrewes, "most Greek states about whose internal organization we know anything at all did at some date change from a kinship to a territorial base, but the reasons for this are left to our imagination."⁸⁴ This idea had already been expressed in the mid-nineteenth century by George Grote, who spoke of Cleisthenic tribes as having been founded "upon a different principle, independent of the gentes and phratries," and by Ernst Curtius, who pointed out that the new tribal system was not connected with any traditional institution, and that "there was no question as to birth and descent" in Cleisthenes's new tribes, although it was neglected in N. D. Fustel de Coulanges's *La cité antique*.⁸⁵ The idea was then independently advanced by Lewis H. Morgan in 1877 and followed, with no major dissension, by Friedrich Engels.⁸⁶ Morgan, however, appears to have occupied a rather radical stance, asserting that "with the institution of political society under Cleisthenes, the gentile organization was laid aside as a portion of the rags of barbarism," only to be followed by Engels (in 1884), who also referred to the end of the "gentile constitution" as a result of the new political organization of ancient Athens.⁸⁷ As demonstrated by the evidence collected in this book, the "gentile organization," or the kinship community, was, in fact, closely integrated with the new political system established by Cleisthenes.



(a)



(b)

Figure 13 The Attic terracotta red-figured ram's-head rhyton (a drinking horn), attributed to the Triptolemus Painter: (a) a symposium scene, with inscriptions above the heads, identifying two men as Theseus and Cecrops, and (b) a general view, signed by the potter on the ram's muzzle, "Charinos made me".

Herodotus also described what looks like a similar transition from kinship to territorial tribes in other places in Greece, including

Cyrene, where Demonax of Mantinea "divided the people into three tribes; of which divisions the Theraeans and resident aliens (*ton perioikon*) were one,

the Peloponnesians and Cretans the second, and all the islanders (*nesioteon panton*) the third,” and

Sicyon, where, according to Herodotus’s reference to old Dorian tribes, Cleisthenes’s own grandfather, Cleisthenes of Sicyon, “changed their names, so that they were not of the Sicyonians and Argives.”

Many have used Herodotus’s words to establish parallels between Cleisthenes’s reforms in Athens and the earlier reforms by Demonax in Cyrene and by Cleisthenes’s namesake grandfather in Sicyon.⁸⁸ In the latter case, this view can be traced to the opinion of Herodotus that the Athenian lawgiver “imitated his maternal grandfather” (Hdt. 5.67.1, 5.69.1). It appears, however, that Cleisthenes’s reforms in Athens reflected a general pattern, which not only revealed itself in Sicyon but also in Cyrene and other places. The importance of Cleisthenes’s tribal reform arises from the fact that requirements for tribal membership were modified accordingly. The Athenian tribal organization was now opened to more than the *astoi* as members of the kinship community: when Cleisthenes established his new territorial tribes, he could also enroll aliens and freedmen in these tribes as “new *politai*.”

This situation casts a new light on Aristotle’s words (*Ath. Pol.* 21.4), which have been commonly interpreted in the sense that Cleisthenes promoted the use of demotics instead of patronymics, with the aim of the *neopolitai* not being segregated from the *demotai*.⁸⁹ Although some skepticism has been expressed about this interpretation,⁹⁰ the majority opinion holds it to be correct: according to Donald Kagan, Cleisthenes “tried to replace the patronymic with the demotic as the official designation of Athenian citizens at least in part to avoid embarrassing ‘new citizens,’” whereas Karl-Wilhelm Welwei believed that “the introduction of the demotic was specifically aimed so that the *neopolitai* were not to be discredited through the use of their patronymic.”⁹¹ And, as we saw earlier, in Ernst Badian’s view, Aristotle’s words meant that Cleisthenes “simply asked that all free men living in the demes be put on the registers as citizens,” and “for the moment, there were to be no resident aliens or freedmen left in Attica.” As a result, continued Badian, “demes now comprised what might be referred to as ‘old members’ and ‘new members,’ and the latter were now also registered in tribes.”⁹²

Dietmar Kienast recently proposed that Aristotle’s reference reflected a later perception of Cleisthenes as a democratic reformer, which resulted from a retrospective reinterpretation of Cleisthenes’s measures in line with the democratic theory of Aristotle’s own time. Independent of Kienast’s view, many have doubted that demotics were expected to replace patronymics because later texts make references to demotics or patronymics, or both at the same time.⁹³ Among those who have questioned the traditional interpretation of Aristotle’s words as meaning that Cleisthenes “legislated a change in Athenian nomenclature from the patronymic to the demotic in an effort to promote equality among the citizens,” T. F. Winters (1993, 162–165) has made the most consistent attempt to reconsider the corresponding evidence. His main argument was that even in the mid-fifth

century, inscriptions and ostraka mentioning names with patronymics appear to be many more numerous than those indicating names with demotics.⁹⁴ Winters concluded that “there is simply no evidence to support the notion that demotics were ‘mandatory and universal,’ replacing patronymics in Attic society” and that “either *Ath. Pol.* 21.4 is inaccurate on this point or the passage has been misinterpreted.” Winters, who believed that Aristotle was drawing an inference from his own time, occupied the same stance as Day with Chambers, and as Rhodes. Day and Chambers insisted that Aristotle “was not right to infer that Cleisthenes established demotic citizenship in order to enfranchise new citizens. The existence of new citizens remains to be proved by noticing the emergence of a demotic name side by side with the patronymic,” whereas Rhodes observed that “by the fourth century the demotic had not supplanted the patronymic but had been added to it . . . if Cleisthenes ordered the use of the demotic with a man’s name to identify him officially, his order was very little obeyed until more than a century afterwards, and more probably *A.P.* is making a false inference from the practice of his own time.” However, if the practice in the fourth century was to use the demotic together with the patronymic, whereas the evidence in the *Athenian Politeia* has been interpreted as Cleisthenes’s order to use the demotic instead of the patronymic, then how could the author of the *Athenian Politeia* infer this order from the practice of his own time? Aristotle’s reputation again fell innocent victim to modern theorizing.⁹⁵

Winters’s important observations have received no meaningful response, and the view that demotics were purposefully intended to replace patronymics in connection with Cleisthenes’s introduction of “new citizens” is still firmly held.⁹⁶ Before picking up this problem where Winters left off, it will be helpful to highlight other challenges created by the traditional interpretation of Aristotle’s words. One of them is that, as stated above, there is no evidence that the *neopolitai* were registered in demes. Yet it is precisely the view that Cleisthenes’s “new *politai*” were registered in demes that has influenced the interpretation of the *Athenian Politeia* 21.4. Another challenge is that Cleisthenes’s new tribes were not kinship but territorial tribes. Hence, not only *astoi* – who had deme membership “by nature,” as members of the kinship community – but also non-*astoi*, such as aliens and freedmen, could be enrolled into them and called by their fathers’ names, or patronymics. This would not have been a problem, even for (at least some) former slaves. Also, critical studies of the *Athenian Politeia* 21.4 have observed that patronymics and demotics were not mutually exclusive but that names with patronymics and with demotics were often mentioned side by side, while some names included both patronymics and demotics. Since patronymics and demotics served different purposes, they cannot be juxtaposed in the way they have been traditionally. It appears that the commonly accepted interpretation of the *Athenian Politeia* 21.4 has been based on two *a priori* assumptions. One of them is that tribesmen and *demotai* were “citizens,” and, therefore, tribes and demes were comprised of people with the same social status, or, as David Lewis asserted, “all citizens, old and new, would start equal in (Cleisthenes’s) new demes and new tribes.” The other assumption has been that *polites*

and *demotes* similarly meant “citizen.” Hence, David Whitehead believed that “every *demotes* was a *polites* (and *vice versa*),” and that “becoming a *demotes* and becoming a *polites* were effectively one and the same act,” whereas Martin Ostwald was eager to think that these *neopolitai* “became *demotai*, and thus citizens, in the same way in which all other deme-residents were admitted to citizenship.”⁹⁷ However, if being a *polites* meant the same thing as being a *demotes* or, in other words, if all *politai* had deme membership, then all *politai* could be designated with the help of demotics. This perception challenges the traditional interpretation of Aristotle’s phrase as Cleisthenes’s push for the use of demotics to homogenize *demotai* and “new *politai*.”

Once we go back to Aristotle’s words, it appears that he does not say that Cleisthenes’s *neopolitai* were registered in demes; he only says that they were enrolled in tribes.⁹⁸ This reflects the essence of Cleisthenes’s tribal reform, which turned Athenian tribes from kinship groups into territorial organizations and, as a result, opened them to non-kinsmen, while membership in his newly organized deme system was only reserved for the *astoi*. The tribes and demes, therefore, included people of different social status, and only partially overlapped. This casts a different light on Cleisthenes’s reform and the situation surrounding the use of demotics. Cleisthenes did not encourage the use of demotics because he wanted to further incorporate the *neopolitai* into demes, but, just the other way around, because he wanted to distinguish those *politai* who were members of tribes and demes from those who only belonged to tribes and stood outside of the deme system.⁹⁹ What it meant was that *politai* did not represent a homogenous group but consisted of two classes of people: those who were *demotai* and those who were not. Whereas all of them could be referred to as *politai* or identified with the help of patronymics, the use of demotics immediately revealed, in a clear and unambiguous fashion, who was a *demotes* by virtue of his legitimate birth as a *gnesios*, and therefore a member of the kinship community of the *astoi*, and who was not. Aristotle’s words (*Ath. Pol.* 21.4) should be translated, therefore, as follows:

And he made all the inhabitants in each of the demes fellow-*demotai* of one another, in order that they might distinguish from the *neopolitai* not with the help of their father’s names (*patrothen*), but might proclaim their demes.

As *astoi*, all *demotai* were also members of tribes, but not all tribesmen, who included non-*astoi*, were members of demes. Also, although both the *astoi* and the *neopolitai* were members of tribes, the *neopolitai* neither had membership in *gene* (as non-*gnesioi*, they were bastards, *nothoi*, by definition¹⁰⁰) nor in demes. Hence, Cleisthenes distinguished between the tribesmen who only had tribal membership and those who also belonged to the deme system. Cleisthenes’s tribal reform reemphasized the difference between *politeia* and political rights, in the sense that only some *politai* enjoyed equal political rights. In a similar fashion, some of the *astoi* who had *politeia* “by nature,” such as women, children, the elderly (if we believe Aristotle), and the *atimoi* did not have any political rights either, as was examined in chapter 4.

Cleisthenes's political community and kinsmen

From what has just been discussed above, it is not surprising that studies of Cleisthenes's political reform have uniformly presented *gene*, demes, phratries, tribes, and other social divisions in Athens, and other ancient Greek cities, as reflecting different levels of organization which had the same social fabric. Since such studies hold the Athenian social organization as consisting of different entities that were comprised of the same people, they rationalize Cleisthenes's reforms as a mechanical rearrangement of such entities and their constituent parts.¹⁰¹ For example, David Lewis believed that all "citizens" were equal in Cleisthenes's "new demes and new tribes," whereas Chester Starr observed that, as a result of Cleisthenes's reforms, "Attica was geographically divided into ten tribes; each tribe in turn consisted of three districts . . . Each of these districts or *trittyes* in turn was composed of one or more demes." The old entry on Cleisthenes by Theodore J. Cadoux and Peter J. Rhodes, which has made its way into the new edition of the *OCD*, reasserted that, as a result of Cleisthenes's reforms, "each citizen was to be a member of one of 139 local unites called demes, and the demes were grouped to form 30 new *trittyes* and ten new *phylai*." Cleisthenes is thought to have built his tribes "up from the demes" (de Ste. Croix), established new tribes "on the basis" of demes and *trittyes* (Welwei), divided all "citizens" into ten tribes, "according to demes and trittyes" (Raaflaub), and "formed his tribes artificially of groups of demes, called trittyes" (Bradeen). Josiah Ober recently described Cleisthenes's tribal reform in the sense that "each tribe drew about a third of its membership from demes located in coastal, inland, and urbanized regions of the Athenian territory."¹⁰²

This formal approach to Athenian social divisions, which distinguishes between them solely by their size and levels of organization and incorporation, seems to be based on reinterpreting the opinion of ancient authors, including Aristotle's famous passage about society being a product of rising levels of partnership – the partnership of a male and a female creates a household (*oikos*), of households a village (*kome*), of villages a city (*polis*).¹⁰³ More specifically, Herodotus said that Cleisthenes apportioned demes by tribes, whereas one of Lysias's speeches mentioned the accuser who asked a certain Pancleon about the deme to which he belonged in order to prosecute him in the court of the corresponding tribe.¹⁰⁴ This evidence does not mean, however, that demes formed tribes in the sense that the deme organization and the tribal organization were comprised of the same people. The image of a linear progression from smaller entities to larger divisions conceals differences in the social, legal, and political status of the members of those organizations. Some such memberships overlapped, and the same person could partake in a *genos*, tribe, and deme in Athens. Their social fabric was not the same, however. Cleisthenes's reforms apportioned demes by tribes, but demes were only comprised of adult male *astoi*, whereas tribes included all *astoi*, who were *politai* "by nature" regardless of whether they were members of demes, as well as non-*astoi*, who only received *politeia* "by decree." Tribesmen and *demotai* represented two distinct social groups. Hence, saying that tribes consisted of demes conceals an important social differentiation.

This situation explains many of the references in our sources and casts a new light on modern theories and interpretations. The distinction between the status of tribesmen and of *demotai* answers the question about why, according to the decree of Demophantus (traditionally dated to 410), an oath to protect democracy was taken by both tribes and demes. This measure would have been completely unnecessary if the two bodies were comprised of the same people. Likewise, when Aeschines mentioned the practice of crowning people by either their tribes or demes, he implied that the honorands in the former group did not have deme membership. And Herodotus had these two groups in mind when he said that Cleisthenes had “established tribes and democracy.”¹⁰⁵ This situation also explains why, as Day and Chambers wondered, Cleisthenes “had not simply used existing trittyes to perform the function of the new tribes.” They dismissed Aristotle’s interpretation as erroneous, and as influenced by his own political philosophy.¹⁰⁶ The correct answer to this question is that Cleisthenes’s tribes were not organized on kinship but on territorial principle, and, therefore, they included more than just members of the kinship community. In a similar fashion, there was a distinction between kinship and political communities: while men, women and children of the kinship community were all members of *gene* (and also *politai* “by nature,” i.e., by virtue of their birth, according to Solon’s reforms), only adult male *astoi* could claim deme membership in post-Cleisthenic Athens. Such observations once again reveal that the traditional approach to the free population of Athens and other ancient Greek cities, dividing people into “citizens” and “non-citizens,” fails to reflect its actual diversity and, accordingly, the diversity of the social organizations into which that population was organized.

The complexity of the actual social organization in ancient Athens is further illustrated by a distinction between membership in and affiliation with demes. *Politai* “by decree” were affiliated with one of the Athenian demes, as was any alien who was permanently residing in Athens.¹⁰⁷ After Pancleon declared that he belonged to the so-called Plataean *politai*, the plaintiff asked him about the deme with which Pancleon was affiliated, in order to prosecute him in the court of the corresponding tribe. Some have interpreted this and other references to the status of the Plataean *politai* in the sense that the Plataeans, who received the *politeia* of Athens in 427, also obtained membership in Athenian demes.¹⁰⁸ However, we do not have any reliable evidence for *politai* “by decree” being introduced in Athenian demes before the early fourth century, whereas the Plataean recipients of Athenian *politai*, just like any other Athenian *politai* “by decree,” had no access to priesthoods and archonships in Athens because they had no membership in the kinship and political communities even in the fourth century.¹⁰⁹

Those who had the right to possess immovable property in the city were also affiliated with demes, because this property was organized by demes. This certainly concerned the *astoi*, who had the right to own immovable property by virtue of their birth as *gnesioi*. Isaeus illustrated this situation with a reference to Apollodorus, son of Thrasyllus. As we saw in the second chapter, this Apollodorus confirmed the status of his adopted son as a *gnesios* by registering him in his (Apollodorus’s) *genos* and phratry. Apollodorus then committed his property to

that adopted son's care (*paradedokoi ten ousian*) and asked members of his deme to enroll his adopted son on the deme's registers (*to lexiarchikon grammateion*) after the adopted son returned from overseas.¹¹⁰ On the other hand, non-*astoi* who had the right to immovable property, or the right of *enktesis* – either as a separate grant or as one of the privileges included in the award of *politeia* – were affiliated with demes without being registered to them. A possible reason for this affiliation was that taxes were collected through demes. Apollodorus, son of Pasio, who received Athenian *politeia* as a grant for himself and members of his family, had immovable property and claimed that his name was reported for taxes by three demes ([Dem.] 50.8) because each of them thought that his land belonged to that deme. Finley interpreted this situation as a result of the lack of formal deme records of landed property, while, more recently, Harris explicated it by noting that “there was no one central register, but many types of records in different places.” While this could well have been the case, another possible (complementary) explanation is that Apollodorus, as a *polites* “by decree,” lacked deme membership. This Apollodorus was one of the *enkektemenoi*, or the people whom he himself mentioned as a separate group alongside the *demotai*. While the *demotai* owned landed property in the deme by virtue of their membership in that deme, the *enkektemenoi* had landed property in the territory of the deme without being registered as its members.¹¹¹

We might add this evidence to the information from a decree by the *demotai* of Piraeus honoring Callidamas, a *demotes* of the deme of Chollidae, which exempted him from paying the *enktetikon*, a tax imposed on land owned within the deme by non-*demotai*. Putting this evidence together with what we know about Apollodorus, son of Pasio, suggests that collecting the *enktetikon* was not unique to the deme of Piraeus,¹¹² because when Pasio and other members of his family (including Apollodorus) received Athenian *politeia*, they became affiliated with the deme of Acharnae.¹¹³ Another conclusion this evidence supports is that the *enktetikon* was to be paid by anyone who held land in a deme without being a member of that deme, even if he had membership in some other deme, like Callidamas, or in no deme, which was seemingly true of Apollodorus, son of Pasio.

This evidence also made a part of the debate on whether Cleisthenes established the demes with clearly defined territorial boundaries. Thus, Merkle K. Langdon argued that unless the demes had been defined by official boundaries, circumstances might arise in which it would not be clear to which deme a given piece of property belonged and, therefore, which deme was entitled to collect the tax. This view was upheld by Nicholas F. Jones, who advocated the existence of “territorial demes” in Attica.¹¹⁴ However, this was the situation in which Apollodorus found himself when he was simultaneously requested to pay the *enktetikon* by three demes. One might also point to evidence of how two Attic tribes, Aegaeis and Aeantis, leased what was evidently the same plot of land.¹¹⁵ This land, therefore, belonged to or was claimed by two demes at the same time. Such evidence challenges the idea that Cleisthenes's demes began with, or gradually developed, territorial borders. More important for the purpose of this study is that while Apollodorus was requested to pay the *enktetikon* on the land which he,

like his father, had by virtue of being a *polites* “by decree,” there is no evidence that he or his father was a *demotes* of Acharnae or any other deme. The confusion would then have resulted because the records of the demes were not organized as property lists but as lists of names of those who held property in the territory of the deme¹¹⁶ – either in the status of its *demotai* or as the *enkektemenoi*, i.e., as members of one of the two groups that were mentioned by Apollodorus ([Dem.] 50.8). This, too, suggests that Cleisthenic demes emerged, and continued, as social bodies rather than territorial entities.

In a similar fashion, although military units were organized by demes,¹¹⁷ all the Athenians liable for military service, i.e., not only *demotai* but *politai* as well, were listed in special lists, the *lexiarchika grammateia*, which were kept in the demes.¹¹⁸ Since the *metoikion* is thought to have been collected by demes, it follows that metics, too, were organized by demes, without, certainly, being *demotai*. Freedmen were also residents of demes without being put on deme registers.¹¹⁹ *Demotai*, therefore, constituted only a fraction of deme residents, which probably explains why demes kept special lists of those who could vote in their assemblies ([Dem.] 44.35: *pinax ecclesiasticos*). This fact has often been passed over in works dealing with the registration of “citizens” in general terms.¹²⁰

Enrollment in tribes neither did nor could turn new tribesmen into members of *gene* or demes or phratries – first, because membership in these organizations reflected different statuses and second, because it was the status of an individual (and, first and foremost, his birth) that determined his membership in social organizations, and not the other way around. It is erroneous to think that Cleisthenes converted all the inhabitants of Attica into “citizens.” He neither did nor could turn the *neopolitai* into *gnesioi*, which would have given them membership in *gene*, phratries, and (for adult male *gnesioi*) demes by virtue of their birth. Nor was *politeia* necessarily connected with deme membership: although *gnesioi* women and children were *politai* “by nature,” they had no deme membership. The non-*gnesioi* women and children who received Athenian *politeia* as a grant found themselves in a similar position: although *politai*, they lacked political rights. In addition, the connection between the status of *polites* and deme membership is not necessarily obvious, even for male recipients of *politeia*, for two reasons. One is that references to deme registration are either restored or lacking in all known grants of *politeia* before the fourth century, such as those to the Plataeans, Thrasybulus of Calydon, Euagoras of Salamis, the Samians, and the heroes of Phyle.¹²¹ Athenian grants of *politeia* unambiguously refer to the deme registration of recipients of *politeia*, but only from the early fourth century, opening up the possibility that deme membership did not always come together with *politeia*.¹²² The second reason why the association between grants of *politeia* and deme membership does not seem so obvious is that, as seen above, being affiliated with a deme was not the same as having deme membership. *Politai* “by decree” were affiliated with demes because their legal cases were considered by the courts of corresponding tribes. Likewise, as people with the right of *enktesis*, all *politai* had to be affiliated with demes, simply because immovable property was organized by demes. This fact alone, however, did not mean that all *politai* were members of demes. For

example, Apollodorus, who had *politeia* “by decree” as a member of Pasio’s family, evidently had no deme membership but did have a deme affiliation as one of the *enkektemenoi*.¹²³ As we have seen, even *demotai* could find themselves in the position of Callidamas, a *demotes* of Chollidae, who held landed property and thus had to pay the *enktesis*, in the deme of Piraeus. In what looks like a similar case, Leochares, who was in possession of the estate of the late Archiades of the deme of Otryne and who claimed to be Archiades’s legally adopted son, tried unsuccessfully to be registered as an Otrynian, although he was a *demotes* among the Eleusinians.¹²⁴ He evidently retained control over the property in Otryne and paid taxes on it while the inheritance suit was being decided, without being a member of Otryne, thus occupying the status of an *enkektemenos*.

Although the *neopolitai* of Cleisthenes had no political rights and, accordingly, no deme membership, they did participate in the assembly. However, this situation only illustrates that being a *polites* did not necessarily mean having political rights. In a similar fashion, the thetes, who had *politeia* and the right to sit on assemblies and juries in Solon’s Athens, had no right to occupy political offices and, it seems, the positions of judges (the major difference being, of course, that, Solon’s thetes were *astoi*, unlike the *neopolitai* of Cleisthenes). Likewise, *politai* “by decree” still had no access to political offices in the classical period of Athenian history (see page 286, n. 14). Although the *neopolitai* had no political rights, as tribesmen they made up a part of the legal system of Athens: most private suits in which the disputed sum was more than ten drachmas were referred to one of the arbitrators assigned to the defendant’s tribe.¹²⁵ As tribesmen, the *neopolitai* also played a significant role in many fields in the life of Athens. The tribes performed important functions, such as administrative (the council of 500 was organized by tribes¹²⁶), juridical (the jurors were allotted from tribes¹²⁷), military (the military organization, including the *ephebeia*, was built on a tribal arrangement¹²⁸), and social (the leitourgical responsibilities were allocated according to tribal division¹²⁹). As Peter J. Rhodes has emphasized, Cleisthenic tribes were the “basis of the army, the *boule*, and in due course various offices and the law courts.”¹³⁰ This situation is vividly illustrated by the fact that when the Athenians became engaged in what proved to be the decisive battle in the harbor of Syracuse in 413, Nicias encouraged the trierarchs via calling them by their personal names, their fathers’ names, and not by demotics but by the names of their tribes.¹³¹

Putting such evidence together casts a new light on the words of Herodotus, who rationalized decisive victories by the Athenians over the Chalcidians and the Boeotians – allegedly on the same day in 506 – by saying that “equality (*isegoria*) is a good thing: while they were under despotic rulers the Athenians were no better in war than any of their neighbors, yet once they got quit of despots they were far and away the first of all.” This observation has provoked a debate about how, exactly, and why the Athenian military became stronger after the fall of the tyrants.¹³² It could well be that Herodotus’s words were merely reflective of the later opinion that the overthrow of the tyranny and the establishment of equality made Athens stronger militarily against all of her enemies, both from the Persians and among other Greeks. Another example of a similar attitude is the dialogue

between the Persian Queen Mother Atossa and the chorus in Aeschylus's *The Persians*, which was performed in 472. In response to the lady's questions, the chorus exclaimed that the army of the Athenians was such that "had inflicted many miseries on the Medes" (236) and that they were "neither slaves nor subjects to anybody" (242).

The typical approach has been to credit this sudden rise of Athenian military might in the late sixth century to Cleisthenes's establishment of democracy in Athens, which has allowed some to even describe the Athenian military force as a "citizen army."¹³³ However, neither Herodotus nor Aeschylus speak of democracy – both of them praise the equality as the reason for the military might of Athens. From where, then, did the Athenian military might come? Frank J. Frost offered the most consistent explanation of this situation when he interpreted the growing strength of the Athenian military as coming from the introduction of the new system of mobilization. In his opinion, registration for military service was most likely adjusted in accordance with the political change in Athens, from (probably) the muster roll organized by phratries to (after Cleisthenes's reforms) the muster roll organized by demes. But, as Frost himself acknowledged, we simply do not know for certain how the system of mobilization was organized in pre-Cleisthenic Athens.¹³⁴ And, as can be extrapolated from later evidence, Cleisthenes did not organize the Athenian military solely by deme rolls but also on a higher administrative level, in line with his new tribal arrangement. According to Aristotle, generals (*strategoí*) were elected by tribes (*Ath. Pol.* 22.2, 67.1); *taxiarchoi*, who were also elected by tribes, led their fellow-tribesmen (61.3); and cavalry forces were organized by tribes, too (61.4–5). Not surprisingly, age groups for military service were defined by tribal eponyms, as follows from Aeschines (2.168) and Philochorus (*FGrH* 328 F 38), while after Cleisthenes's reforms, "each new tribe contributed one regiment of hoplites to the Athenian army."¹³⁵

This new military organization in Athens is best illustrated with reference to three pieces of evidence: the Athenian military disposition by tribes at the battle of Marathon;¹³⁶ Thucydides's description of the ritual of war funerals (2.34.2–3: "the bones of the departed lie in state for the space of three days in a tent erected for that purpose . . . on the day of the funeral coffins of cypress wood are borne in wagons, one for each tribe, and the bones of each are in the coffin of his tribe");¹³⁷ and Aristotle's reference to the ephebic training as organized by tribes (*Ath. Pol.* 42.2–3). Thucydides's words that both *astoi* and aliens (*xenoi*) could participate in the funeral ceremony (2.34.4) show that tribal military units did not only include the *astoi*. Inscriptions also point to the Athenian military organization as based on division into tribes: in particular, the guard of the bowmen (*toxotai*) was comprised of members of the tribe holding the monthly presidency in the city. These *toxotai* included *astoi* and "aliens" (*xenoi*).¹³⁸ Such evidence reflects Cleisthenes's new tribal organization, which embraced not only *politai* "by nature," or *astoi* as members of the kinship community, but also *politai* "by decree," or aliens who received *politeia* as a gift. Both groups were expected to fulfill military obligation to the city. A possible answer to the question about why the new system of mobilization was more effective than the previous one – and it certainly was, if

we trust Herodotus – is that Cleisthenes's reforms enlarged the tribes by including many *neopolitai*, who were now also obligated to provide military service.¹³⁹ The result of Cleisthenes's reform in the military field was, therefore, both a rearrangement of Athens' military organization and a significant increase in the size and capability of her army: all *politai* had a military duty to Athens regardless of their origin.

The same conclusion follows from the evidence about the declared aim of the Four Hundred and the Thirty to conduct a military review of the *politai*, whose number was reduced to five thousand and three thousand, respectively, during the two oligarchic regimes. Although the number of *politai* was reduced, the principle remained the same: the *politai* were the only people in the city who had the right to bear arms and, therefore, serve in the military.¹⁴⁰ This was also the formal reason why Lysias urged the Athenians not to put any restrictions on the *politeia* of the *astoi* after the fall of the Thirty in 403 (D.H. *Lys.* 32 and *Lys.* 34.3 = D.H. *Lys.* 33). He argued that, if implemented, this measure would cripple the efficiency of Athens' military force. The military importance of those who received *politeia* as a result of Cleisthenes's reforms is also demonstrated by the prominence of *politai* "by decree," i.e., non-*astoi*, in Athenian military life. Many of them served as Athenian generals and trierarchs.¹⁴¹

Parts of Cleisthenes's reforms were closely interconnected. He both established territorial tribes, thus changing the criterion for tribal membership and opening access into tribes to non-*astoi*, and founded the deme system as the political organization of the city. Only *astoi*, who were *politai* "by nature," had deme membership by virtue of their birth. Non-*astoi* are first documented to have received access to demes together with grants of *politeia* "by decree" in the early fourth century. Establishing *demokratia*, therefore, was only one part of Cleisthenes's reforms, which created a new form of relationship between the two most important social groups in Athens: the *astoi* and the *politai*.¹⁴² On the one hand, he secured the support of non-*astoi* by raising their status through enrolling them as *politai* in the new Athenian territorial tribes. This gave them wider access to social, legal, and military participation. We see a similar situation a hundred years later, when Dionysius I enlarged the social support of his newly established tyranny in Syracuse in 405 by manumitting slaves, whom he called "new *politai*" (Diod. 14.7.4) – although they received *politeia* in the city, they were not supposed to join its kinship community. On the other hand, Cleisthenes protected the position of the *astoi* by reserving the newly organized deme system for them alone, thus reacting to the mounting complexity of the Athenian social life, which required defining the special status of the kinship community in stricter terms. Cleisthenes, therefore, continued Solon's policy of securing a special place for the kinship community, which was outlined in the second chapter, but he did it in a different fashion. The need to further distinguish the kinship community was a natural outcome of the growth of the Athenian population, which now included more and more outsiders who were actively participating in city life. The old debate on whether Cleisthenes acted against or in the interests of the Athenian aristocracy needs to be readjusted. His reform focused on the position of the Athenian

kinship community, of which the aristocracy comprised a part.¹⁴³ The end result was that the system established by Cleisthenes accommodated and balanced the interests of the people who belonged to the kinship communities and those who did not. The question of the longevity of the social organization established by Cleisthenes in Athens is almost never raised,¹⁴⁴ although it was this new system of social relations that served as the actual basis for the new political regime of Athens, its *demokratia*.

The Athenians' individual status remained multidimensional. The same person could belong to more than one organization because each of them reflected a certain aspect of his or her status. The status of a *gnesios* ensured its holder a membership in the city's kinship community and, accordingly, in one of the *gene*. A *deme* membership was only possible for those whose birth gave them political rights, and, therefore, it was open only to male *astoi* who reached a prescribed age. Membership in a phratry reflected the right to inherit the patrimony, which was only possible for *gnesioi*: it looks as if – at least in some cases – even women, who did not have political rights, could still be enrolled in phratries when there was no legal male heir.¹⁴⁵ Membership in a tribe reflected one's social and legal status in the *polis*, or *politeia*. It is only natural, therefore, that *politeia* and *politai* did not relate to the demes or *gene* but to the city as a whole (cf. *politeia tes poleos*: e.g., Dem. 8.70 and [Dem.] 59.117), and we never hear of someone as a “*polites* of the X deme.” Even when Cleisthenes lifted the property census on the political rights of Athenian kinsmen, many *astoi* still did not have political rights, including women, underage children, old men (if we trust Aristotle on this: *Pol.* 3.1.4, 1275a.14–27), and the *atimoi*, although all of these groups were counted as *politai* by virtue of their birth.

Since only *gnesioi* could be *demotai* by origin after Cleisthenes established the deme system in Athens in 508–507, all subsequent *diapsephismoi* took the form of checking deme rolls. However, this fact does not deny the historicity of the *diapsephismos* of 510 as examined in the preceding chapter. Nor does this fact mean that it was the person's membership in the deme system that entitled him to *politeia* in the city. Once the tyranny of the Pisistratids was overthrown in 510, the Athenians enacted a *diapsephismos* because “many shared the *politeia* who had no right to it (*ou prosekon*).”¹⁴⁶ Since all *gnesioi* were *politai* “by nature” according to Solon's *nomothesia*, the verification of *politeia* (to use the later concept) in 510 meant verifying that *politai* “by nature” were *gnesioi*, so that the result of this scrutiny was that people of “impure birth” were deprived of their status as *politai*. As Karl-Wilhelm Welwei perceptively noted a long time ago, by enrolling aliens and freed slaves into his newly organized tribes, Cleisthenes was acting in the same fashion as the Pisistratids, who gave Athenian *politeia* “by nature” to many people of “impure birth,” or non-*gnesioi*.¹⁴⁷ Although Welwei interpreted this step as the grant of “citizenship” and although he saw people of “impure birth” in social and political terms (i.e., not in their relationship to the kinship community), the policies of the Pisistratids and Cleisthenes were similar in the sense that increasing the number of *politai* – either by frequently granting *politeia* “by decree” or by redefining the basis of having access to *politeia* “by nature” – strengthened the

social support of the power that established the new *politeia*. To counterbalance the inclusion of both *gnesioi* (as *politai* “by nature”) and non-*gnesioi* (as *politai* “by decree”) into his new tribes, Cleisthenes limited the possession of political rights to *gnesioi*, whom he organized into demes. Therefore, after Cleisthenes’s reform, the best way to verify one’s status as a *gnesios* – and, thus, a *polites* “by nature” – was to check if this person’s name was on the demes’ rolls, which became an established practice, as we saw in the previous chapter. This has created confusion in many modern studies that fail to distinguish between the kinship, legal, and political status of ancient Athenians.

Conclusion

The traditional perception of Cleisthenes’s reforms is reminiscent of the modern approach to Solon’s reorganization of Athens early in the sixth century: as we saw in the second chapter, it presented Solon’s reforms as being aimed to undermine the status of the Athenian kinship community in favor of the interests of individuals and of the city of Athens as whole. In a similar fashion, Martin Ostwald described the outcome of Cleisthenes’s reforms in the sense that “residence in a given locality rather than membership in a kinship group now became the criterion of citizenship,” and Kurt Raaflaub characterized each of Cleisthenes’s ten new tribes as “designed to unite (‘mix’) different segments of the citizen body in common events (festivals) and shared service in the army and in the new ‘council of 500.’”¹⁴⁸ Cleisthenes’s reforms have thus been interpreted, in general terms, as offering the same status to all Athenians and unifying the Athenian state.¹⁴⁹ However, only members of the kinship community (*astoi*) could be *demotai* – people with political rights, or citizens, in modern terms – whereas the ten new territorial tribes not only included *demotai* but also non-kinsmen, or people of “impure birth.”

The steps taken by Solon and Cleisthenes indeed reveal certain similarities which allow us to see them together as having the same purpose: to preserve the special status of the Athenian kinship community. The basic approach of these two people was also the same: the political status and the legal status were distinguished, and political rights belonged only to members of the kinship community. Solon’s *politeia* served as the basis for Cleisthenes’s *demokratia*, because Cleisthenes preserved the same founding principle as had been established by Solon: the *gnesioi* were the only *politai* “by nature.” However, there were two major differences between Solon’s and Cleisthenes’s reforms. One of them was that Cleisthenes not only restored the equal social and legal status, or *politeia*, of all members of the Athenian kinship community – which had been established by Solon and corrupted under the Pisistratids – but he also made all adult male *astoi* politically equal. Cleisthenes’s *demokratia* further homogenized the Athenian kinship community, and distinguished it from the rest of the population in Athens, by giving equal political rights to all adult male *astoi* and opening the newly established deme system only to them. Cleisthenes’s push for the use of demotics instead of patronymics was aimed, therefore, not at mixing the population of

Attica but, just the other way around, at homogenizing and separating the *astoi*, who were the only ones to hold political rights in the city.

The other major difference was that, whereas Cleisthenes restored Solon's principle that only the *gnesioi* were *politai* "by nature" (if, similar to ancient Greeks, we use a later term in retrospect), Cleisthenes also gave *politeia* to many non-*gnesioi*, such as resident aliens and freedmen, and joined them as *neopolitai* with the *gnesioi* in his ten new territorial tribes. This served to broaden social support for the newly established *demokratia*, even if the *neopolitai* did not have political rights (Arist. *Pol.* 3.1.10, 1275b.37–38). The tribal reorganization was, thus, the centerpiece of Cleisthenes's reforms: it is only this reform that we hear about from Herodotus (5.66.2, 5.69.2) in the fifth century B.C. and from Pausanias (1.5.1, 1.29.6) in the second century A.D. Such new *politai* could be enrolled in a tribe in Athens (if they so wished) and join with the *politai* "by nature." But the grant of *politeia* certainly did not mean that such *politai* were enrolled into all city organizations: new *politai* could never be enrolled in *gene*, for example, because they did not belong to the kinship community. Still, the rapid increase in the number of *politai* immediately affected the social and political regime in the city by offering support to the system established by Cleisthenes in Athens. We encounter similar episodes in later Athenian history, including Thrasybulus's proposal of offering *politeia* to Lysias and other aliens who had returned from Piraeus after the Thirty were overthrown: granting *politeia* to these people was going to affect the political situation in Athens. Conversely, Thrasybulus's political opponents suggested withdrawing *politeia* from some of the *gnesioi* by introducing a property census, which was the essence of Phormisius's proposal.¹⁵⁰ Since being a *polites* was not the same as having political rights, and since only (adult male) *gnesioi* could have political rights in the city, the grant of *politeia* alone did not entitle its recipients to political rights – or make them citizens, if one still wishes to use the modern concept – nor, consequently, to deme membership in the late sixth and fifth centuries. Originally and for a long time, therefore, the Athenian *demokratia* remained the kinship democracy, since it belonged only to *astoi* as members of the kinship community of Athens.

Notes

- 1 De Sanctis (1975, 424–425); Baslez (1984, 94, 98); Ostwald (1988, 312); Bleicken (1994, 153–160); Anderson (2003, 36); Ste. Croix (2004, 139, 236) ("membership of a deme and nothing else"); Ducat (1992, 43); Hartmann (2002, 65); Pébarthe (2006, 202); Ober (2015, 162–164, 200).
- 2 Ledl (1908, 226, 1909, 1); Billheimer (1938, 9, 20); Kahrstedt (1934, 68 n. 4, 71–77); Guarducci (1937, 19); Hignett (1970, 136). See also Paoli (1930, 279–280); Vatin (1970, 115–116); Patterson (1981, 11); Just (1989, 15); Fornara and Samons II (1991, 55); Todd (1993, 180); Ogden (1996, 152).
- 3 Davies (1977–8, 107); cf. 109–110; Effenterre (1985, 258); Larsen (1957, 6). See also Lévêque and Vidal-Naquet (1996, xii); Anderson (2006, 103).
- 4 Prandi (1982, 14, 19, 113); Welwei (1983, 57, 170) (the same situation survived after Cleisthenes's reforms, when "citizenship" started to be "based" on deme registration, whereas phratries lost their political importance: 176; see also Lambert below), and (1992, 2). See also Hunter (1993, 112): phratries "controlled the entrance of new

- members in the citizen body”; Maffi (2005, 255): “to be considered citizens, the children must be included as legitimate offspring in their father’s phratry.”
- 5 Paoli (1930, 215): political rights through membership in the tribe, while the deme membership secured “patrimonial rights”; Rhodes (1997a, 464); cf. Welwei (1983, 170, 176) (see preceding note).
- 6 Busolt (1926, 940–945); Gauthier (1972, 77); MacDowell (1978, 68–70); Hedrick (1991, 219–221); Lambert (1998, 31–43, 261–266, 2012, 1142), with the criticism of Jones (1999, 197–199). See also Ehrenberg (1925, 94); Paoli (1930, 259); Humphreys (1974, 89–90); Welwei (1983, 57, 170); Sealey (1990, 14); Hansen (1991, 46, 94–96); Bearzot (1997a, 59); Pomeroy (1997, 77); Lonis (2000, 79); Hamel (2003, 50); Bearzot (2005, 92); Niku (2007, 13); Feyel (2009, 141–142); Deene (2011, 168 n. 45).
- 7 Carlier (1992, 113, 116). For this approach, see also Daverio Rocchi (1993, 58–59); Bremen (2003, 316); Blok (2004, 2).
- 8 E.g., Roussel (1951, 312); Maffi (1998, 20); Hartmann (2000, 16).
- 9 Szanto (1892, 56, 105); Gschnitzer (1981, 93, 123). A similar view: e.g., Brulé (1995, 135).
- 10 Bordes (1982, 43); Lonis (1992a, 247).
- 11 Lambert (2012, 1142); Rhodes (1981, 253); cf. Pomeroy (1997, 77); Carawan (2008, 387, 402); Cadoux and Rhodes (2012, 330). A similar approach: Asheri (1971, 77); Walters (1983, 317, 320) (on “deme enrollment” as the “legal basis of Athenian citizenship”); Hedrick (1984, 233) (“if a man belonged to a phratry, he should be entitled to deme membership”); Just (1989, 20); Manville and Ober (2003, 59) (on citizenship as “an identity based on membership in the organization”); Osborne (2010, 31) (“to be a member of a deme and a citizen was also to be a member of a tribe”).
- 12 Feyel (2009, 141–142), who still believed that individual rights depended on membership in social organizations.
- 13 Humphreys (1974, 90) (on “grants of citizenship to *nothoi*”); Lambert (1998, 33 n. 37) (Isae. 3.37: the right to *politeia*) and 43–49 (the law of Pericles in 451–450 B.C.; on this law, see preceding chapter and appendix 5).
- 14 M. Piérart, in *Revue des études anciennes* 87 (1985), 173–174. On citizenship as “conferred” by tribes, see Oliveira Gomes (2007, 69).
- 15 Cf., e.g., for phratries in Delos and Miletus: Guarducci (1937, 59, 67–69), and phratries and tribes in Tenos and Andros: *ibid.*, 59 and 60, respectively.
- 16 E.g., Guarducci (1937, 43, 60–61, 64) (on *phratría* as *oikos* in Ceos), 80–82 (on *phratría* as *khiliastys* in Ephesus). Cf. Lewis (1997, 25–26) on deme as *choros* in Ceos.
- 17 *Genos*: e.g., Roussel (1951, 82–83). Tribe: e.g., Stockton (1990, 24); Oulhen (2004, 311); Oliveira Gomes (2007, 78–79, 90); Hall (2014, 211, 278); Schmitz (2014a, 59). For further references, see Lacey (1968, 85).
- 18 E.g., Ferguson (1910, 259, 264); Forrest (1966, 196); Hignett (1970, 143–144); Martin (1974, 8); De Sanctis (1975, 425); Littman (1979, 7, 9); Welwei (1983, 57, 170, 176) (see n. 4 above); Walters (1983, 317); Hedrick (1984, 219); Starr (1986, 91); Stein-Hölkeskamp (1989, 161); Hansen (1991, 46); Eder (1992, 33); Robertson (1992, 3, 32); MacDowell (1993, 361–362); Frost (1994, 49); Ogden (1996, 152) (with bibliography); Lewis (1997, 92, 96); Cantarella (1997, 103); Lambert (1998, 261); Lape (2002–03, 129 n. 49, 2010, 15 n. 48); Ste. Croix (2004, 140–141, 144) (with n. 36), 236; Tsigarida (2006, 35); Samons II (2007, 7); Seifert (2011, 268); Ismard (2011, 171); Forsdyke (2013, 230); Griffith-Williams (2013, 255); Stein-Hölkeskamp (2015, 138–139) (but see 257 on “subdivisions” of citizen organization, including tribes). Pace Manville (1990, 69).
- 19 E.g., Pomeroy (1997, 78): “Like demes, phratries were part of the political structure of the mature polis traceable back to the Cleisthenic reorganization,” with extensive bibliography. Cf. Arist. *Ath. Pol.* 21.6 (see n. 55 below). Ste. Croix, who, like many others, shared the view that phratry membership was a mark of citizenship in pre-Cleisthenic Athens (see preceding note), appeared to be the only person who pointedly tried to solve this problem by asserting (2004, 141) that all aspects of the functioning of phratries, “apart from the removal from phratries of their one great

- political privilege (control of admission to citizenship), were left entirely untouched by Cleisthenes." We do not see any indication of this differential approach to phratry by Cleisthenes, however, in Arist. *Ath. Pol.* 21.6 or in any other source.
- 20 E.g., Manville (1990, 69, 154–156, 176) ("Before the establishment of that standard by Kleisthenes' reforms of 508/7, there is no proof that any such legal criteria existed"). For this view on Pericles, see, e.g., page 156, n. 2 and page 210, n. 96. For his "citizenship law," see preceding chapter.
 - 21 For this view on Solon, see page 156, n. 1. It is, then, likewise unclear who those "citizens" were who allegedly made up the "revolution of 508–507," according to Ober (1996, 38, 43).
 - 22 This view: e.g., Meier (1996, 41); Fouchard (1997, 212).
 - 23 Pl. *Menex.* 8, 239a and Pl. *Epist.* 7, 326d; cf. Lengauer (1987, 84–86). Isocr. 4.105. See also Arist. *Rhet.* 3.9.7, 1410a.1–13, and Xen. *Hellen.* 2.3.49 with Lys. 26.2, 31.8.
 - 24 D.H. Lys. 32 and Lys. 34.3 = D.H. Lys. 33 (see also page 122, n. 65). The proposal, attacked by Lysias, has been interpreted as the desire to (re-)introduce a property census on citizenship: Th. Lenschau, in *RE* 20 (1940), 541–544; S. Perlman, in *PdP* 114 (1967), 163; U. Walter, in *NP* 9 (2000), 952. Arist. *Pol.* 7.12.5, 1332a.35.
 - 25 Arist. *Pol.* 3.3.5, 1278a.30–35 and other similar references: see page 206, n. 54.
 - 26 The *gennetai*: [Dem.] 59.59–60. On the *diapsephismoí*, see previous chapter.
 - 27 Cf. Hignett (1970, 143): "membership in a phratry was still a condition of citizenship . . . there may have been a few citizens who for one reason or another had failed to obtain admission to a phratry"; Hedrick (1984, 233) (see n. 11 above), and (1991, 250 n. 51): "I agree with Hignett that phratry membership continued to be prerequisite for citizenship even after 508"; Ogden (1996, 152): "But whatever requirements the deme did or did not make of its candidates, forensic speeches that argue for citizenship base their arguments upon membership not of the demes but of a phratry . . . we must therefore assume that phratry membership was an effective if not a legal requirement for deme membership, and therefore for citizenship." For deme membership as securing membership in tribes, see Anderson (2003, 127–128); Kamen (2013, 80).
 - 28 For the theory of the subsequent "radicalization" of Cleisthenes's regime, see pages 210–211, nn. 104–112, and n. 133 below. For the difference between the ancient Greek and modern perceptions of political rights, see chapter 4.
 - 29 Arist. *Ath. Pol.* 55.2–3, and 45.3, and n. 1 above. This procedure: Harrison (1971, 201–203); Borowski (1976, 50–81).
 - 30 Hdt. 5.66–72; Arist. *Ath. Pol.* 20.1–4. Andrewes (1977, 246–247); Flaig (2011, 61–63); David (1986, 11–13), respectively.
 - 31 Wade-Gery (1958, 139, 142, 147); Raaflaub (1998, 88–89); Kienast (2005, 100); Wallace (2007, 77), with Kahrstedt (1940, 3–5).
 - 32 Cf. Ober (1996, 41): on his return, "Cleisthenes fulfilled the promise he had made to the *demos*."
 - 33 E.g., Francotte (1907, 49); Eliot (1962, 4) ("a Kleisthenic deme was a fixed area of land with an inhabited centre from which the deme was administered"), 145–147 (with notes); Roussel (1951, 285 n. 13); Langdon (1985, 5–15); Lohmann (1993, 57–59). Overviews of this approach: Whitehead (1986a, 27–30); Jones (1999, 56–57); Ismard (2011, 169).
 - 34 E.g., D. M. Lewis, in *Gnomon* 35 (1963), 724–725, and Lewis (1997, 87); Thompson (1971, 72–79); Raaflaub (1995, 22–23).
 - 35 Badian (2000, 448) (and 462 n. 6 with bibliography).
 - 36 Jones (1999, 56–57). First: Jones (1999, 70–71). Second: Wijma (2014, 98 n. 16). The latter view: Stanton (1984a, 305).
 - 37 This interpretation: Traill (1986, 122); Whitehead (1986a, 28–29, 386); Jones (1999, 59, 65).
 - 38 Traill (1986, 116–122). Jones (1999, 60–62) challenged Traill's opinion and saw the rupustral inscriptions as permanent markers of borders of demes' territory.

- 39 See (i) Jones (1999, 60 n. 45), (ii) *ibid.*, 64–65, and (iii) and (iv) *ibid.*, 65–67. Demes: *ibid.*, 71–81.
- 40 E.g., Cohen (2000a, 120–129); M. Golden, in *JHS* 120 (2000), 181. Lambert (2004, 91–92), followed by Papazarkadas (2011, 156–157).
- 41 Lambert (2004, 91–92), spoke of a lease only with reference to the “house,” which was his proposed restoration, without raising the possibility of a lease of territory that belonged to the deme. Jones in fact came very close to the latter idea but did not develop it; see Jones (1999, 59), with reference to *IG* II² 2623: “even on Kirchner’s restoration, the stone can only have marked a boundary of the deme’s territory or some fraction thereof.” A similar explanation can be given for ὄρ(ος) Π(α)μ(β)οταδῶν in *SEG* 32, 228 = 44, 77 = 45, 162 = 46, 216 (late fourth cent.?), if Stanton’s restoration is correct (1984a, 300); cf. Lohmann (1993, 58 n. 434).
- 42 For leases of land (*to khorion*) and other property by a deme, see inscriptions from the deme of Piraeus: *IG* II² 1176 (= Walbank (1991, 186–189), no. L8 [late fourth cent. B.C.], and 194–195, no. L13 [324–323 B.C.]), 1177 (ca. 350 B.C.), 2497 (ca. 350 B.C.), 2498 = *Syll.*³ 965 = *SEG* 32, 226 (ca. 321–320 B.C.), and *SEG* 33, 143 (324–323 B.C.), and evidence from various demes: Walbank (1991, 152, 156–158) (fourth cent. B.C.).
- 43 See, for example, *IG* II² 1180 (ca. mid-fourth cent. B.C.), which praises a certain Leucius, who granted the deme of Sounion two plethra of land for an *agora*, with strict provisions for marking it out to prevent encroachment: “Neither the demarch nor anyone else may build within the *horoi* (ἐντὸς τῶν ὁρῶν),” discussed and translated by Camp II (2014, 94–95).
- 44 Lalonde (2006b, 94–97), followed by Papazarkadas (2011, 156–160); cf. Wijma (2014, 98–99 n. 16).
- 45 Lalonde (2006b, 96); Papazarkadas (2011, 159). S. C. Humphreys, in *JHS* 100 (1980), 98 tentatively dated this law to the time of the Great Plague.
- 46 For metics as organized by demes, see n. 119 below. For the landholders who did not belong to the *demotai* registered in this specific deme, see below.
- 47 Lalonde (2006a, 10–11), followed by Papazarkadas (2011, 158–159).
- 48 Lalonde (2006b, 91): “An anonymous *Hesperia* reviewer suggested that I consider whether B might have marked property encumbered as a security for debt. This seems at least a possibility,” 92: “we cannot utterly preclude the possibility of *horos* B as a security marker on the grounds that to us it is too uninformative . . . it is conceivable, then, that B was an early surviving marker pertaining to one or more of the rock-cut shoplike rooms to the south,” and 93: “the case of *IG* I³ 1055.B as a deme boundary marker is, at least from the evidence of its immediate context, inconclusive.”
- 49 E.g., Eratosthenes *ap.* Strabo 1.4.7, C 65: “If there are no exact boundaries (*horoi*) – as with Kollytos and Melite – such as stelai and enclosures (*periboloi*), we can only say that ‘this is Kollytos and this is Melite,’ but do not have the boundaries (*horoi*)” (tr. D. W. Roller), which has been adduced as a proof that a lack of boundary markers indicates a lack of precise fixed boundaries between demes or that such boundaries actually existed: Thompson (1971, 73–74); Whitehead (1986a, 28) (and n. 105), with references; Lalonde (2006b, 101): “it does not imply that Kollytos and Melite do not have boundaries, but that their boundaries do not have precise markers.” For the use of a stele as marking the border between two regions, see Plut. *Thes.* 25.3: Theseus set up a stele between the Peloponnesus and Ionia in the Isthmus, with the inscription, “Here is not Peloponnesus but Ionia” on the one side, and “Here is Peloponnesus, not Ionia” on the other. However, the two regions had no official, legal border, and Theseus’s stele only reflected a common general perception of the Isthmus as the place that was between them.
- 50 The first: Whitehead (1986a, 77–81). The second: J. D. Mikalson, in *AJP* 98 (1977), 424–435; Wijma (2014, 98–99).
- 51 Hence, a deme’s outer borders were the outer borders of the lands held by its *demotai*: Whitehead (1986a, 29–30); Stanton (1984a, 304) on demes “as population centers

- from which the demesmen went out to farm the surrounding land,” which is a “better idea of the deme than the concern with boundaries and the territory of a deme.”
- 52 Badian (2000, 452, 454, 462 n. 10). On Cleisthenes as giving “citizenship” to all the residents of Attica: Peremans (1972, 129); Manville (1990, 191); Giorgini (1993, 125–126); Meier (1996, 58); Ruzé (1997, 393); Fouchard (1997, 182–183); Anderson (2003, 13); Farrar (2007, 186–187); Lape (2010, 16); Ismard (2010, 119); Giangiulio (2015, 41); Grote (2016, 206–217). *Pace*, correctly, Roussel (1951, 276–277), who, however, also believed that Cleisthenes’s *neopolitai* were enrolled in demes. For projecting this view into the past before Cleisthenes’s reforms: Farrar (2007, 186–187); Gagarin (2007, 15–16) (see page 166, n. 149).
- 53 E.g., Lape (2002–03, 129): “Initially, membership in the citizen body was based on residence.”
- 54 For example, Hansen (1991, 47): “. . . a deme was also a political entity, in that all the citizens living within the area of the deme were made members of it. In fact, a deme was a society rather than a locality.” But what, then, defined, who was a citizen and who was not?
- 55 Arist. *Ath. Pol.* 21.6, with Bourriot (1976, 692–693); Welwei (1983, 57). This passage is sometimes juxtaposed with Arist. *Pol.* 6.2.11, 1319b.20–24 (incl. 23–24: φυλαί τε γὰρ ἕτεραί ποιητέαι πλείους καὶ φ(ρ)ατρίαι) as two texts that provide conflicting information about Cleisthenes’s reform, and his policy on phratries in particular; see Murray (1990, 15–16); Loraux (1997, 7); Ismard (2007, 30), who connected the excerpt from Aristotle’s *Politics* with the information about the *orgeones* being admitted in phratries (*FGrH* 328 [Philochor.] F 35a; see page 52, n. 107), thus presenting their admittance as a result of Cleisthenes’s introduction of new “citizens.” On the alleged conflict between Arist. *Ath. Pol.* 21.6 and Arist. *Pol.* 6.2.11, 1319b.20–24: De Sanctis (1975, 435 n. 57) (who referred to the excerpt from *Politics* as “ambiguous” and accepted the information of the *Athenian Politeia*); Rhodes (1981, 258–259).
- 56 The review of historiography: Bourriot (1976, 508–514), who accused Aristotle of “shortsightedness.” Cf. the critique of Aristotle by Blok (2013, 162–163) (see page 159, n. 48). For this perception of Solon’s reform, see chapter 2. It is difficult to agree with Oliver (1980, 35), who believed that the “thirty trittyes of the Cleisthenian reform replaced the thirty *gene* of the earlier constitution”; cf. Jones (1999, 55): “The new phylai, trittyes, and demes . . . were set up as rivals to an already existing network of regionally based aristocratic cultic associations.” The establishment of the trittyes: Bradeen (1955, 22–30); Andrewes (1977, 245–246).
- 57 Ste. Croix (2004, 169). For Arist. *Ath. Pol.* 21.2, see n. 65 below.
- 58 Hdt. 5.66.2. This interpretation: e.g., Ste. Croix (2004, 129–130).
- 59 Rhodes (1997a, 464). This reform: Walter (1993, 205–208). The character of the new demes: Thompson (1971, 72–79).
- 60 E.g., Meyer (1993, 110) (with n. 25 on the difficulty of dating the available evidence), who concluded that the “move to the demotic must therefore have been a voluntary rather than an imposed one”; Winters (1993, 163) and n. 7. Cf. M. H. Hansen *et al.*, in *Analecta Romana Instituti Danici* 19 (1990), 25: “it took more than a century before it became common to record the demotic after a man’s name and patronymic . . . it was never common in literary sources, apart from forensic speeches, to record a man’s demotic.”
- 61 Szanto (1892, 56, 105); Paoli (1930, 218); Harrison (1971, 206–207); Sinclair (1988, 24). On the theory of the “radicalization” of Cleisthenes’s democracy, see pages 210–211, nn. 104–112, and n. 133 below.
- 62 E.g., Osborne (1990, 268–269).
- 63 E.g., Arist. *Ath. Pol.* 43.1, 44.4, 61.1 with Rhodes (1981, 513–514, 517, 535, 677–682).
- 64 Arist. *Pol.* 3.1.10, 1275b.37–40, and next note. On *metoikous* as an interpolation, see Jacoby (1954b, 143 n. 15) (on the basis of the “tendency of Aristotle’s source”); Ruzé (1997, 391). This makes no difference to my conclusion.

- 65 E.g., Arist. *Ath.Pol.* 21.2: Cleisthenes “first divided the whole body into ten tribes instead of the existing four, wishing to mix them up, so that more could share in *politeia*,” 21.4 (*tous neopolitas*), 22.5. For the expression “new *politai*,” see, e.g., Diod. 14.7.1 and 4: Dionysius I gave *politeia* to aliens and freed slaves.
- 66 J. H. Oliver, in *Historia* 9 (1960), 503–507, rejected by Lewis (1997, 94 n. 136); Kagan (1963, 43, 45); Welwei (1967, 435 n. 56); Ruzé (1997, 391). Cf. Arist. *Ath.Pol.* 21.2 (see preceding note).
- 67 E.g., Schenkl (1883, 69–70); Kagan (1963, 43, 45); Pleket (1969, 58); Bicknell (1969, 34); Welwei (1967, 424); Hignett (1970, 132); Fornara (1970, 244); Peremans (1972, 128); Grace (1973, 19); Martin (1974, 14); Rhodes (1981, 255–256); Baslez (1984, 81–82); Loraux (1997, 15); Anderson (2003, 41); Osborne (2006, 12); Poddighe (2012, 10); Kamen (2013, 79), with a review of opinions in Luzi (1980, 72 n. 5, 73, 77, 78).
- 68 Bicknell (1969, 35) (Cleisthenes “promised a restoration of *politeia* to them in return for their support of the Alkmeonidai”); Gomme (1937, 84–85), and 84 n. 3: “This expulsion was an oligarchic measure, taken by Isagoras, before Kleisthenes’ legislation. Kleisthenes restored them,” with page 207, nn. 62–63. This identification: Welwei (1967, 423); Luzi (1980, 76–77); Rhodes (1981, 188); Hedrick (1984, 227); Patterson (1990, 58–59); Stockton (1990, 24); Develin and Kilmer (1997, 14–15); Cohen (2000a, 63–64); Ste. Croix (2004, 169); Poddighe (2006, 17); Deene (2011, 161). Fornara (1970, 244).
- 69 Stanton (1984b, 39); so also, e.g., Poddighe (2010, 299). For benefactions as a prerequisite for grants of *politeia*, see Isocr. 9.54; [Dem.] 36.30 and 59.89 (see page 203, n. 3). For the *diapsephismos* of 510, see preceding chapter; cf. the people of “impure birth”: Arist. *Ath.Pol.* 13.4–5 (see page 207, n. 57).
- 70 E.g., Leão (2012, 137): the “descendants of the mercenaries hired by Peisistratus.”
- 71 On this perception, see, e.g., Roussel (1951, 277); Queyrel (2003, 73); Ste. Croix (2004, 146, 169).
- 72 This opinion: Sickinger (1999, 54); Anderson (2003, 212); Grote (2016, 220) (who, however, saw Cleisthenes’ tribes as citizen organizations). The importance of Cleisthenes’s tribal reform: Ehrenberg (1925, 88); Barta 2.1: (2011, 53).
- 73 Hdt. 5.66.2, 5.69.1; Arist. *Ath.Pol.* 21.2. Day and Chambers (1962, 112), dismissed this evidence and asserted that the four old tribes “continued to exist at least for religious duties through the fifth century if not later.” Interestingly, they did not substantiate this assertion with reference to the four *basileis*, usually identified with leaders of the four tribes, who still exercised legal functions well into the fourth century: Arist. fr. 385 = Poll. 8.111 (see chapter 1). Cf. MacDowell (1963, 87), who connected his discussion of the four *phylobasileis* with a reference to the survival of the four tribes that retained some religious functions.
- 74 Arist. fr. 385 = Poll. 8.111 (see chapter 1).
- 75 This interpretation: Sickinger (1999, 54); Brisson *et al.* (2000, 13); Anderson (2003, 126); Barta 2.1: (2011, 53). This was totally missed by Oliveira Gomes (2007, 74); Schmitz (2014a, 87–88, 2014b, 66). The territorial character of the new tribes is not overturned by the fact that their constituent regions were non-contiguous: Jones (1995, 306).
- 76 Hdt. 5.66.2 and Cleidemus, in *FGrH* 323, F 8, respectively. Zacharia (2003, 50–54) asserted that Cleisthenes’s reform of the old tribal names did not reflect anti-Ionian attitudes at Athens.
- 77 Their sanctuaries: Kearns (1989, 80–81) (with n. 2); Jones (1995, 510, 1999, 156–161). This conclusion is compatible with the interpretation suggested by Anderson (2003, 129) that the choice of Pandion, Ajax, and Hippothoon “carried with it implicit Athenian claims to control the Megarid, Salamis, and Eleusis, respectively.” However, if these three eponymous heroes symbolically marked the incorporation of the three corresponding regions as parts of Attica, why was (according to Kearns: 81) the shrine of Hippothoon located in Eleusis (for its location in the Agora area, see Jones

- 1995, 510; Anderson 2003, 130), while that of Ajax on Salamis (Kearns, *loc.cit.*; cf. Anderson (2003, 130): “in the Agora area”) and that of Pandion in Athens? For juxtaposing the Aeginaetan and Athenian genealogies of Ajax, see Duploux (2006, 62–63).
- 78 Paus. 10.10.1: “On the base below the wooden horse there is an inscription which says that the statues were dedicated from a tithe of the spoils taken in the engagement at Marathon. They represent Athena, Apollo, and Miltiades, one of the generals. Of those called heroes there are Erechtheus, Cecrops, Pandion, Leos, Antiochus, son of Heracles by Medea, daughter of Phylas, as well as Aegeus and Acamas, one of the sons of Theseus. These heroes gave names, in obedience to a Delphic oracle, to tribes at Athens. And also Codrus, the son of Melanthus, Theseus, and Neleus; those who are no longer tribal eponyms (οὔτοι δὲ οὐκέτι τῶν ἐπωνύμων εἰσὶ).” E.g., Kearns (1989, 81–83); Develin and Kilmer (1997, 13).
- 79 Paus. 1.5.5 (cf. 1.6.8, 1.8.6), with Frazer (1913: 2, 80).
- 80 Virginia Museum of Fine Arts, Richmond; Adolph D. and Wilkins C. Williams Fund, 79.100.
- 81 After all, Pausanias did not say that the ten heroes he mentioned were honored as tribal eponyms. According to Georges Roux (Vidal-Naquet 1981, 391), there were twenty-two blocks that could have served as bases for statues in that place in the sanctuary, which has been tentatively identified as the location of the images of the eponymous heroes. If this is correct, there was a place not only for the eponymous heroes as well as Athena, Apollo, and Miltiades, but also for Theseus, Codrus, and Neleus, and several more characters. Could it be that Pausanias only mentioned ten heroes out of twice as many who were honored in Delphi?
- 82 Strabo 9.1.6, C 392; F. Graf, in *NP* 6 (1999), 622–623; J. Stengel, in *NP* 12.1 (2002), 435–436. Pandion: n. 77 above.
- 83 This view was questioned by Roussel (1951, 194–199), largely based on a lack of definitive evidence and because of his vision of the political development of ancient Greece as a gradual substitution of kinship relations with the domination of noble families (199–200). However, the domination of aristocratic families and their fights among themselves were not mutually exclusive with kinship relations because aristocrats made up a part of the kinship community; see chapter 2 (with n. 10) and Smith (2006, 133) (“not all *gennetai* need have been Eupatrids”), 139.
- 84 Andrewes (1977, 242). See also Roussel (1951, 280–281); C. Roebuck, in *Transactions of the American Philological Association* 92 (1961), who preferred (506–507) to talk about “political integration” and “political units,” but still saw the creation of new tribes as a response to the situation wherein the “boundaries of kinship in the ethnic tribes could not be breached” (500) and as a chance for the incorporation of non-kinsmen (504); Ste. Croix (2004, 139–140).
- 85 G. Grote, *A History of Greece* 3, vol. 4 (London, 1851 [orig. published in 1846]), 171; E. Curtius, *The History of Greece*. Tr. A. W. Ward, vol. 1 (New York, 1899 [orig. published in 1857]), 406; Fustel de Coulange (1864, 156–166).
- 86 Morgan (2000, 253): on the Athenians’ “new political system, founded upon territory and upon property,” 271–272: Cleisthenes’s tribes “substituted a series of territorial aggregates in the place of an ascending series of aggregates of persons,” and 276: “Whatever was true of the Athenian tribes will be found substantially true of the remaining Grecian tribes.” Engels (1942, 106) distinguishing the new local tribe from the “old tribe of kinship.”
- 87 Morgan (2000, 276); Engels (1942, 102–108).
- 88 Hdt. 4.161.3, 5.68.2. Demonax: Hölkeskamp (1993, 409–411, 1999, 166–171). Cleisthenes of Sicyon: Day and Chambers (1962, 104); Mossé (1969, 42–43); Roussel (1951, 210–213, 266, 270, 311–312); Oliveira Gomes (2007, 75, 78); with Grote (2016, 59, 61) on tribes in Sicyon as citizens’ organization.
- 89 Arist. *Ath. Pol.* 21.4: καὶ δημότας ἐποίησεν ἀλλήλων τοὺς οἰκοῦντας ἐν ἐκάστῳ τῶν δήμων, ἵνα μὴ πατρόθεν προσαγορεύοντες ἐξελέγχωσιν τοὺς νεοπολίτας, ἀλλὰ τῶν

- δήμων ἀναγορεύουσιν. Cf. H. Rackham's translation (*LCL*): "And he made all the inhabitants in each of the demes fellow-demesmen of one another, in order that they might not call attention to the newly enfranchised citizens by addressing people by their father's names, but designate people officially by their demes," with Edwards (1916, 14) ("To avoid that invidious distinction of blood the new citizens and the old are to be known by their deme-names or *demotika*"), 58–61.
- 90 E.g., Wilamowitz (1893, 169–170); De Sanctis (1975, 425–426); Day and Chambers (1962, 116–117); Forrest (1966, 194–195) (with a less skeptical stance); and, more recently, Hall (2014, 240): "if that was Cleisthenes' primary aim, it was manifestly unsuccessful: there is some evidence for the use of demotics prior to Cleisthenes and epigraphic evidence offers no substantial confirmation of a wholesale shift from patronymics to demotics in the post-Cleisthenic period. Furthermore, if Cleisthenes had wanted to protect the *neopolitai* ("new citizens") from social stigma, he surely could have achieved it in a far simpler fashion."
- 91 Kagan (1963, 45); Welwei (1967, 423). See also Martin (1974, 15, 17).
- 92 Badian (2000, 452), who correctly put together Arist. *Pol.* 3.1.10, 1275b.37–38 and Arist. *Ath.Pol.* 21.4.
- 93 Kienast (2005, 74). See, e.g., Roussel (1951, 277); Lambert (1998, 264); Meyer (1993, 110) (see n. 60 above), and further bibliography in Winters (1993, 162–165).
- 94 Winters (1993, 164): "According to my figures from those stones which I consider relevant for the period 510–475, there are 42 with name only, 38 with name and patronymic, 14 with name and demotic, and 3 with name, patronymic and demotic. After 475 there are 12 with name only, 10 with name and patronymic, 2 with name and demotic, and 14 with the full three names," and, for ostraka (till approximately mid-fifth century), 164–165: "If we omit Themistokles altogether, we get the following numbers: 42 with name and demotic, 512 with name and patronymic, 42 with name only and 6 with the full name."
- 95 *Ibid.*, 165; Day and Chambers (1962, 116); Rhodes (1981, 254), followed by Ducat (1992, 43–44). On similar treatment of evidence from Aristotle, see n. 56 above.
- 96 See, e.g., Osborne (1997, 29 n. 52); Lape (2002–03, 129 n. 52).
- 97 Lewis (1997, 97); Whitehead (1986a, 75, 97); Ostwald (1988, 312); Similar view: Kron (1976, 25); Brulé (1995, 135, 151); Davies (2004, 27–28); Schmitz (2014a, 87–88).
- 98 Arist. *Ath.Pol.* 21.2 and Arist. *Pol.* 3.1.10, 1275b.37–40.
- 99 Hence, Welwei's attempt (1967, 423 n. 4, 1983, 175) to disconnect Aristotle's evidence about the use of demotics (Arist. *Ath.Pol.* 21.4) from the evidence about Cleisthenes's enrollment of foreigners and slaves as *politai* into Athenian tribes: Arist. *Pol.* 3.1.10, 1275b.37–38 and Arist. *Ath.Pol.* 21.2. Cf. Badian (2000, 452) (see n. 92 above).
- 100 See esp. Bearzot (2005, 77–92).
- 101 E.g., Ferguson (1910, 283–284); Busolt (1926, 960); Lacey (1968, 16); Bourriot (1976, 517–518); Jones (1999, 155, 214–215); Ste. Croix (2004, 139); Ismard (2010, 135, 2011, 166); Blok (2013, 172); Forsdyke (2013, 231); Stein-Hölkeskamp (2015, 271–275); Grote (2016, 208–209, 213). This view is certainly connected with the opinion that Cleisthenes gave citizenship to all residents of Attica: see n. 52 above.
- 102 Lewis (1997, 97); Starr (1986, 90); Cadoux and Rhodes (2012, 330); Ste. Croix (2004, 139); Welwei (1992, 17); Raaflaub (1995, 2); Bradeen (1955, 22); J. Ober, in *Applied Classics*, ed. A. Chaniotis *et al.* (Stuttgart, 2009), 212. See also Ehrenberg (1925, 62); Busolt (1926, 973–975); De Sanctis (1975, 435); Kron (1976, 19, 22); Bleicken (1994, 153–160); Ruzé (1997, 371); Giangiulio (2015, 41). The relationship between demes and trittyes: G. R. Stanton, in *Chiron* 24 (1994), 161–207.
- 103 Arist. *Pol.* 1.2.5–8, 1252b.13–30. Fustel de Coulange (1864, 143): "multiple families formed a phratry, multiple phratries a tribe, multiple tribes a city. Family, phratry, tribe, city, were also entities exactly similar to each other and were formed one from another by a series of merges (par une série de fédérations)."

- 104 Hdt. 5.69.1 (δέκαχα δὲ καὶ τοὺς δήμους κατένειμε ἐς τὰς φυλάς); Lys. 23.2. Similar to essentially all subsequent editors of Herodotus, I have accepted Busolt's emendation of δέκα as in the MS to δέκαχα: Busolt (1926, 873 n. 4). This emendation concerns the debate about the number of Cleisthenic demes; see esp. Whitehead (1986a, 16–22).
- 105 The authenticity of the decree of Demophantus, as presented in And. 1.96–98, was recently rejected (Canevaro and Harris 2012, 119–125, who concluded that the text adduced as the decree of Demophantus was probably passed in 400–399) and defended (Sommerstein 2013, 74–75; A. H. Sommerstein, in *CQ* n.s. 64 [2014]: 49–57, incl. 50: the text of the decree of Demophantus “must have been inserted into the text of Andocides at a later [probably Hellenistic] date. It does not follow automatically, however, that D is not a genuine decree of Demophantus,” and 53: supporting its traditional dating to 410–409). The authenticity of the decree of Demophantus was not in doubt by those who either accepted its traditional dating (Shear 2007, 148–160, 2011, 73, 89–91, 2012, 37; Teegarden 2014, 17, 30) or by those who questioned it (Matthaiou 2011, 81 n. 18; Arrington 2015, 73 n. 72: 403–402 B.C.). It is possible that this was a later modification of an earlier regulation, as seen on other occasions. Aeschin. 3.44–45; Hdt. 6.131.1. These words have traditionally been interpreted in the sense that Cleisthenes's reforms of tribes and demes were parts of his establishing democracy in Athens: e.g., Kron (1976, 18).
- 106 Day and Chambers (1962, 114–115), who (161) believed that Cleisthenes created ten tribes, “side by side with the old ones, for administrative purposes only,” thus totally missing the social and political significance of his reform. For the same problem approached from a different perspective: Ducat (1992, 39–40).
- 107 See esp. Rhodes (1981, 497) (with evidence and bibliography), and Wilamowitz (1887, 116–121); Gerhardt (1933, 15–17); Rhodes (1997a, 464); Whitehead (1977, 72–75) (with bibliography); Cohen (1997, 82).
- 108 Lys. 23.2 (εἰπόντος δὲ τούτου, ὅτι Πλαταιεὺς εἶη, ἡρόμην ὁπόθεν δημοτεύοιτο κτλ.); [Dem.] 59.104 (see pages 283–284 and 286, n. 14, with Canevaro 2013, 196–208). This interpretation: Prandi (1988, 113–115); Bearzot (1997a, 43–44).
- 109 For grants of *politeia* as evidently not always being accompanied by deme membership, see n. 121 below. For the status of *politai* “by decree,” see [Dem.] 59.92, 104, 106 (see pages 283–284 and 286, n. 14).
- 110 Isaeus 7.27. On property organized by demes, see also, e.g., [Dem.] 43.58, with Ostwald (2000a, 51).
- 111 See [Dem.] 50.8: on taxes being collected from the *demotai* and from “those who had property” (*ton te demoton kai ton enkektemenon*), i.e. those who had the right to possess immovable property (for this group, see also page 122, n. 75), with this explanation by Faraguna (1997, 17–18); Papazarkadas (2011, 124, 158). Arist. *Oecon.* 2.2.5, 1347a.18–24 also suggests that taxes were collected by demes. Finley (1951, 14); Harris (2016, 123). However, Finley's assertion seems to go against the evidence of Poll. 8.104 about property records' being listed by demes; see also Harp. Λ 17 (s.v. ληξιαρχικὸν γραμματεῖον), and this conclusion by Faraguna (1997, 16–18, 21–24) and M. Faraguna, in *Chiron* 30 (2000), 70, with Harris (2016, 123). For the status of Apollodorus and his immovable property, see page 122, n. 76. Finley's occasional insensitivity to the differing political, social, and legal status of economic and financial agents similarly prevented him from examining the question about why Pasio happened to owe eleven talents to the bank he had leased to his own associate Phormio: Finley (1951, 262–263 n. 3). It was the right of Pasio, as a *polites* “by decree,” to recover loans made on security in the form of immovable property: see page 122, n. 76.
- 112 *IG* II² 1214.25–28 (ca. 300–250 B.C.). Michele Faraguna (1997, 21) has argued for a similar tax in the deme of Eleusis (*IG* II² 1187.16–17) and in the deme of Lamptraia (*IG* II² 1204.11–12). Cf. the view that this tax was levied only by the deme of Piraeus: Whitehead (1986a, 76 n. 38); Jones (1999, 65); Papazarkadas (2011, 124); Lasagni (2011, 48–49).

- 113 Osborne (1983 [3–4], 48–49 [T 30]); Osborne and Byrne (1994, 362). Trevett (1992) surprisingly passed this over.
- 114 Langdon (1985, 8) (“the *enktesis* required the existence of deme boundaries so that possibility of ambiguity over taxing rights would not rise”). For Jones’s views, see above.
- 115 Apollodorus: [Dem.] 50.8 (see n. 111 above). Aegeis and Aeantis: Walbank (1991, 186–189), no. L8 (fourth cent. B.C.).
- 116 Cf. Kienast (2005, 82–83), tracing lists of land-owning “citizens” organized by demes to the Pisistratid period.
- 117 E.g., Lys. 16.14; cf. Theophr. *Char.* 25.6.
- 118 E.g., *ML* 23.29–31 (480 B.C.) and Thuc. 6.43, 7.16, 7.20.2, 8.24.2 on muster rolls organized by tribes. On the role of tribes in Athens’ military organization, see also below.
- 119 Metics: Gauthier (1972, 134–135); Whitehead (1977, 77) (“there surely were registers of metics in their demes”); Patterson (2000, 95, 98): “a metic is registered as ‘living in’ one deme or another, but he cannot own land in Attica and cannot be a part of, or have a share in, either deme or tribe”; Ismard (2010, 338–339); Wijma (2014, 158–159). Freedmen: e.g., Bearzot (2005, 82, 87). See also n. 107 above.
- 120 E.g., Effenterre (1976, 8, 10–11, 14, 16); Will (1998, 635 n. 21); Hansen (1991, 104). Cf., however, a more detailed approach by Bearzot (2005, 92); Pébarthe (2006, 204), who believed that the meaning of the *pinax ecclesiasticos* was not clear, while also noting (207, 213–214) that demes were not only comprised of the *demotai*.
- 121 (i) [Dem.] 59.104 (= Osborne 1981 (1), 28 [D 1]): the grant to the Plataeans, 427 B.C. (see page 286, n. 14); (ii) *IG* I³ 102 (= Osborne 1981 (1), 28–29 [D 2]).15–17: εἶναι δὲ Θρασυ[β]ολον Ἀθηναῖον, καὶ φυλῆς τε κ[αὶ] φρατρίας ἡ[ὸ]ν ἄν βόλεται γράφασθαι αὐτόν (the grant to Thrasybulus, 410–409 B.C.); (iii) Osborne (1981) (1), 31 [D 3].9–11: [– καὶ ἔναι] αὐτ[ὸν] Ἀθηναῖον καὶ αὐτὸν καὶ τὸς παῖδας αὐτοῦ καὶ ἐ-] σγράψασθαι αὐτὸν καὶ ἐξ φρατρίας καὶ δέμον καὶ φυλ[ῆς] ἐν κτλ. (the grant to Euagoras of Salamis, ca. 410 B.C.), cf. D. M. Lewis, in *IG* I³ 113, who was not so sure of either the nature of the grant or the content of the lacunae, which he left without restoration; (iv) *IG* I³ 127 (= Osborne 1981 (1), 35 [D 5]).33–34: καὶ νῆμαι [αὐτὸς αὐτίκα μάλα ἐς τὸς δῆμος καὶ τὰς φυλὰς δέκαχα (the grant to the Samians, 405–404 B.C., thought to have been reinscribed in 403–402 B.C.); (v) *IG* II² 10.A (= Osborne 1981 (1), 39–40 [D 6]).5–6: ἔναι αὐτοῖς καὶ ἐκγόν[οις] πολιτεῖαν καὶ φυλῆς καὶ δῆμο καὶ φρατρίας ἧς ἄν βόλωνται (the grant to the heroes of Phyle, ca. 401–400 B.C.).
- 122 See *IG* II² 17.25–26 (= Osborne 1981 (1), 45 [D 8.30–31]): κ[αὶ] ἔναι αὐ[τὸν] Ἀθ[ηναῖον, γρά]ψασθαι δ[ε] αὐτὸν εἰς φυλ[ὴν] καὶ δῆμον κ[αὶ] φρατρίαν (the grant to Stthorys of Thasos, ca. 394–393 B.C.) and 19b.7–8 (= Osborne 1981 (1), 42 [D 7.8–9]): γράψα[σθαι] δὲ καὶ φυλῆς κ[αὶ] φρατρίας καὶ δῆμο (the grant to Phil[...]. of Rhodes, ca. 394–393 B.C.).
- 123 Lys. 23.2 and [Dem.] 50.8, respectively (see nn. 104 and 111 above).
- 124 [Dem.] 44.39 (ἀντεγράψατο Ὅτρουνεὺς εἶναι ἐν Ἐλευσινίοις δημοτευόμενος). See nn. 110–111 above.
- 125 Harrison (1971, 19) (“each tribal group was responsible for those cases in which the defendant was of their tribe”), 67; Rhodes (1980, 316).
- 126 E.g., Arist. *Ath. Pol.* 43.2, 62.1 (elected by tribes from members of the *demos*). See Rhodes (1981, 253).
- 127 E.g., Harrison (1971, 67); Rhodes (1980, 316); Patterson (2000, 97–98); Thür (2005, 147).
- 128 E.g., Hdt. 6.111.1; Thuc. 6.98.4; Arist. *Ath. Pol.* 42.2. See also Busolt (1926, 978–979); Roussel (1951, 283) (with nn. 65–66); Kron (1976, 24, 233) (and n. 1129 with bibliography for Athenian lists of killed in war, organized by tribes); Welwei (1992, 11, 15); Christ (2001, 398): “During the Classical period, Athenians used two different methods of conscription of which we know. At the time of the Peloponnesian War, the generals exercised considerable discretion in selecting whose names to post on the

- ten conscription lists (*katalogoi*), one for each tribe, that were compiled whenever a campaign was planned. By the mid-fourth century, however, the generals had begun keeping permanent records of potential hoplites by age-group and calling up entire groups to serve based exclusively on their age,” who dated this reform to some time in the period 386–366 B.C. (398, 412–416), and referred to the Athenian hoplites as “citizens.” The hoplites were organized by tribes, both before this reform (Christ connected the earlier system of conscription with Cleisthenes’s establishment of ten tribes: 398–399) and later in the fourth century: see Arist. *Ath.Pol.* 53.4 and 7 (on the use of tribal eponyms for conscription) and Diod. 18.10.2 on the division of the Athenian army according to tribes after the death of Alexander.
- 129 E.g., Isae. 7.36 (*gymnasiarchia*); Arist. *Ath.Pol.* 56.3 (*choregia*), with Busolt (1926, 975–977); cf. *IG* I³ 833bis.3: *kata phy[la]* (ca. 480–470 B.C.), with D. Pepas-Delmouzou, in *AM* 86 (1971), 55–64 and *SEG* 26, 43 (*choregia*). See Jones (1987, 48–51). Cf. distribution to members of tribes at the Panathenaia and the Great Dionysia: Roussel (1951, 284).
 - 130 Rhodes (1981, 253). See also Ste. Croix 2004, 151.
 - 131 Thuc. 7.69.2, which also illustrates nicely that demotics neither could nor did replace patronymics. This idea was advanced by Aristotle’s own belief that the primary, if not the only, motive of Cleisthenes’s reforms was to mix the population of Athens: Arist. *Ath.Pol.* 21.3 and Arist. *Pol.* 6.2.11, 1319b.24–28.
 - 132 Hdt. 5.78.1, with *IG* I³ 501. See, e.g., De Sanctis (1975, 418–420). For the later retrospective interpretation of the earlier moves towards social and legal equality as the establishment of democracy, see Dmitriev (2015b, 53–83).
 - 133 E.g., Kron (1976, 18) (who explicated Cleisthenes’s tribal reform as a democratic measure); Giangiulio (2015, 45). Cf. Brunt (1993, 178): “Democratic freedom and equality unleashed the full energies of the Athenian people.” This approach also implies that democracy was established in Athens as a one-time event late in the sixth century. Cf. the view about the eventual radicalization of Athenian democracy, which was in place by the mid-fifth century, when the word *demokratia* emerged: Rosivach (1988, 52) (the 440s); O’Neil (1995, 57–67) (on the establishment of “final democracy” as a result of several reforms that started in the late 460s); J. H. Blok, in *Klio* 87 (2005), 30 (the 430s); Mann (2010, 69) (and n. 41), and pages 210–211, nn. 104–112. The “citizen army”: Anderson (2003, 123–124, 148) (“a citizen army organized according to the tribal system established by Cleisthenes”), 150; cf. Wallace (2007, 76); Caire (2016, 263).
 - 134 Frost (1984, 284–285, 293–294), respectively, and (1994, 52–53).
 - 135 Bicknell (1969, 36); Glotz (1928, 144); Roussel (1951, 283); Bradeen (1955, 26); Effenterre (1976, 14–16); Andrewes (1977, 247); Rhodes (1980, 314, 1981, 253); Welwei (1983, 172); Bleicken (1994, 159–160); Anderson (2003, 148) (see n. 133 above).
 - 136 E.g., Plut. *Arist.* 5.5–6; Plut. *Qu. Conv.* 1.10, p. 628de; cf. Hdt. 6.109.2–4. Bicknell (1969, 36 n. 19).
 - 137 Athenian casualty lists organized by tribes: G. Smith, in *CP* 14 (1919), 351–364; Bakewell (2007, 89–101).
 - 138 Tribal *toxotai*: e.g., *IG* I³ 14.42, 45 and 45.14–17 (ca. mid-fifth cent. B.C.). The *toxotai*: *IG* I³ 138.3–4 (before 434 B.C.).
 - 139 Patterson (2005, 277) viewed Athenian soldiers as “more effectively organized by the new tribal contingents” and saw the enrollment of foreigners and slaves in the tribes as the enlargement of the “citizen community.”
 - 140 Arist. *Ath.Pol.* 31.2, and Xen. *Hellen.* 2.3.20, 2.3.41 with Lys. 12.40, 95 (see page 208, n. 80).
 - 141 See page 203, nn. 1 and 2.
 - 142 This situation raises the question about what organization (if any at all) *politai* “by decree” were registered in before Cleisthenes’s reforms replaced kinship tribes with

territorial tribes. This concerns, for example, those foreigners who received *politeia* from Solon (Plut. *Sol.* 24.4, certainly using the word *politeia* in retrospect).

143 This debate: e.g., Ste. Croix 2004, 163–164 (with bibliography).

144 See, e.g., Roussel (1951, 273).

145 Isae. 3.73–76 (see page 48, n. 59).

146 Arist. *Ath.Pol.* 13.5; cf. Ostwald (1988, 304): “Aristotle tells us that the disfranchised were people who had joined Peisistratus ‘through fear,’ presumably because they needed his protection.”

147 Welwei (1967, 434); Reboton (2009, 12–13).

148 Ostwald (1969, 151); Raaflaub (2007, 145).

149 E.g., Ehrenberg (1937, 149); Lewis (1997, 77–98).

150 Thrasybulus’s proposal: [Plut.] *Lys.* 835f–836a; cf. Arist. *Ath.Pol.* 40.2. Phormisius’s proposal: D.H. *Lys.* 32 and *Lys.* 34.3 = D.H. *Lys.* 33 (see n. 24 above).

Epilogue

Approximating the Athenian community

The past is not something fixed and unalterable. Its facts are rediscovered by every succeeding generation, its values reassessed, its meanings redefined in the context of present tastes and preoccupations. Out of the same documents and monuments and works of art, every epoch invents its own Middle Ages, its private China, its patented and copyrighted Hellas.

Aldous Huxley, *Heaven and Hell*

It is difficult to overcome modernizing influences on our perceptions of the past. Only half a century ago, Moses Finley pointed out that the ancient Greek word *oikonomia* had a much different meaning from the modern concept of “economy,” although the latter word was derived from the former. *Oikonomia* defined the organization and management of a household (*oikos*), with the aim of increasing the revenues and minimizing losses of that small and relatively closed economic entity, rather than creating a productive investment and a surplus value typical of the modern economic system, categorized by Finley as an “enormous conglomeration of interdependent markets.”¹ Nor was ancient Greek *demokratia*, which was perfectly compatible with various forms of inequality, including slavery, defined in the same way as a modern democracy, which aims, or claims, to protect the rights of individuals and minorities – a totally unknown concept to ancient Greeks. Likewise, no one today identifies the meaning of the Roman *res publica* with the modern idea of a “republic” now used to refer to a specific political regime. A much more appropriate translation of *res publica*, which was used to designate the Roman state both under the Republic and under the Empire, would be a “commonwealth.” Like *res publica*, “commonwealth” is applied to different political regimes, including monarchies such as the Commonwealth of Great Britain and Northern Ireland, and republics like the Commonwealth of Independent States, which to a large extent temporarily replaced the dissolved Soviet Union. In a similar fashion, theoretical foundations of modern imperialism have justified its expansion with references to Roman imperial policy, which they reinterpreted and rationalized on the basis of economic and political developments during the last two centuries.² Such examples merely show that while words stay, their meanings change, and a historical perspective needs to be kept in mind when retrospectively projecting modern terms back into the past, where they originated.

The same is true of the ancient Greek word *politeia*, which has not only been brought forward in the modern word “politics” and its cognates but was also retrospectively associated with political activity in ancient Greece.³ In particular, *politeia* has been identified with citizenship and *politai* with citizens – people who enjoyed political rights in ancient Athens and other Greek cities. This view has served as the basis for presenting all free Athenians as having been divided into “citizens” and “non-citizens,” while identifying the former group as the *astoi* and the latter as consisting of visiting and resident aliens.⁴ This relatively recent extension to ancient Greece of the perception of a bipartite division into “citizens” and “non-citizens” is an oversimplification and a gross distortion of reality. The free population of Athens was comprised, in fact, of people who held diverse statuses and formed distinct social groups, or communities. Of the numerous religious, sporting, trading and other social groups that existed in ancient Athens, the three most important were the kinship community of the *astoi*, the legal community of the *politai*, and the political community of the *demotai*, which all crystallized and established varied relationships with each other over the course of the sixth century. The emergence and development of these communities also affected the status of visiting and resident aliens. They might have enjoyed some form of incorporation or various specific rights and privileges on an individual basis or no rights and privileges at all, and, therefore, they occupied a variety of standings in the city. Although membership in kinship, legal, and political communities overlapped, they remained distinct from each other because some people belonged to only one or two of these communities, and their membership depended on specific and variable circumstances. The multi-faceted and evolving relationship among these communities determined the course of Athenian history in the sixth century and later.

The kinship community was the oldest of the three. Originally, only its members, or *astoi*, enjoyed political, legal, social, and economic rights in the city. This does not mean, however, that all *astoi* always had equal rights. Just the other way around, *astoi* struggled to legally sanction the equality they claimed was theirs by virtue of their origins. In Athens, the social and legal equality of all *astoi* was a result of Solon’s reforms early in the sixth century. Solon established the idea that membership in the Athenian kinship community belonged only to legitimate children, or *gnesioi*, who were born of two *astoi* in *engyetic* marriage, i.e., marriage with a surety, *engye* or *engyesis*, which is usually translated as a “betrothal.” By introducing common requirements, officials, and regulations, as well as administrative bodies that were valid for all *astoi* – and, thus, cutting across the borders of their individual households, clans, and other local divisions – Solon effectively brought together and organized the Athenian kinship community. As part of that policy, he also allotted the privileged social and legal status in the city to all *astoi* equally, regardless of their wealth.⁵ Ancient Athenians and other Greeks retrospectively referred to that status, and to Solon’s regime, as *politeia* (which is often translated as “constitution”), although this word did not emerge until later. Modern studies similarly apply the nouns *politeia* and *politai*, as well as their cognates, retrospectively to the realities of the sixth century. Originally, however,

this status was designated with the help of ethnics – for example, “the Athenians” in Athens – while the noun *politeia* only started to be used to define the *politeia* of the Athenian *astoi* from the mid-fifth century. Since all *politai* occupied the same legal status, they formed a legally homogenous group.⁶ The concept of *politeia*, therefore, developed inside the kinship community of the *astoi*, whose members became *politai* “by nature,” or by virtue of their birth.

After the equal social and legal status of the *astoi* was established, it could be given out as a privilege to non-kinsmen from among foreign and resident aliens. Not surprisingly, in Greek tradition, Solon himself was the first to offer grants of *politeia* (the word, again, being used in retrospect) to foreign craftsmen, who wished to permanently settle and ply their trade in Athens, and to other people, including the Scythian Anacharsis. The earliest such grants used ethnics or adverbial forms: the recipients obtained the right to become “Athenians” or to “live as *politai*” in Athens. It was only in the early fourth century that such grants began to use the noun *politeia*. Even much later, however, grants continued to apply ethnics and adverbial forms interchangeably with the noun *politeia*, revealing the origins and early development of this practice. Regardless of such terminological details, the *astoi* as *politai* “by nature” and aliens as *politai* “by decree” formed a single social and legal community, or a *politeia*, and enjoyed essentially the same social, legal, and economic rights.

Solon’s kinship community, however, was more of an ideological construct reflecting the rise of the idea of Athenian autochthonous exclusivity in the classical period. This idea was actually based not only on the later-developed theory of the common ancestry and kinship of all “Athenians,” which itself was an artificial concept, but also on the principle of legitimacy. Solon made this quite clear when he established that only *gnesioi*, as legitimate children, were members of the kinship community of the *astoi*. Bastards, or *nothoi*, had no place in the order of inheritance by kinship proximity, or *anchisteia*, even though *nothoi* were also kinsmen: some *nothoi* were born to two *astoi* who did not live in engyetic marriage. This nature of the Athenian kinship community, as based on both kinship and legitimacy, is further revealed by the status of *politai* “by decree.” As non-*astoi*, they had neither membership in the kinship community (and, in particular, in Athenian *gene*, or clans) nor, accordingly, the right to occupy the archonships and priesthoods of the city. However, as *politai*, they had the right to possess immovable property in the city, or the right of *enktesis*, and, therefore, they could use this property as a surety and arrange engyetic marriages with Athenian *astai*. Their children, therefore, were counted as legitimate (*gnesioi*) and members of clans (*gennetai*), and, for this reason, had access to all offices and priesthoods of the city. The earliest evidence about this situation concerns the people of Plataea who received the Athenian *politeia* “by decree” in the late fifth century, but this practice could have emerged in earlier times.

Although the kinship community of *astoi* and the legal community of *politai* overlapped, they were not identical. The ways in which both membership in those communities and their interrelationships were defined did not remain static. After Solon established that the *astoi* had the right to *politeia* “by nature,” i.e., by virtue

of their birth as legitimate (*gnesioi*) children, any *nomothesia* dealt with the problem of the legal equality of the *astoi* – not only by establishing the same laws and officials for them⁷ but also by enlarging or reducing the number of *politai* “by nature” via modifying the criteria of selection. The latter typically meant limiting the possession of *politeia* “by nature” to only some of the *astoi* by imposing additional restrictions, such as a property and/or an educational census.⁸ This is what happened under the oligarchies of the Four Hundred and the Thirty: both regimes established a property census on access to *politeia* “by nature” and, in this way, deprived many *astoi* of the privileged status that belonged to them by the virtue of their birth. Conversely, access to *politeia* “by nature” was sometimes opened to non-*astoi*, or people of “impure birth,” as has been argued in chapter 5. Such people became supporters of the political regime that awarded them the privileged status in the city, as happened under the rule of the Pisistratids and at the time of Cleisthenes’s reforms. Hence, as ancient Greek theorists noted, the person who was a *polites* in one place was not necessarily recognized as a *polites* in another (Arist. *Pol.* 3.3.5, 1278a.30–35). And even in a democracy, some *astoi* either lost their privileged status of *politai* or had it greatly diminished as a result of being punished with the penalty of *atimia*. They became – temporarily or permanently – categorized as *atimoi*.

The same was true for the political community, which was comprised of people who had political rights in Athens, or “citizens,” according to modern terminology. Solon appears to have been the first in Athens to draw a fine line between social and legal status, or *politeia*, on the one hand, and political status on the other. According to Greek tradition, as outlined in the third chapter, while making *astoi* socially and legally equal as *politai* “by nature,” or by virtue of their birth, he divided them into four census classes and differentiated their political rights, depending on the class to which they belonged. In political terms, therefore, the regime established by Solon was an oligarchy. Before focusing in more detail on the Athenian political community, two factors that affected retrospective perceptions of Solon’s reforms by later Greek and modern authors need to be brought into consideration. One of them is that – contrary to the view that habitually extends the broad, modern perception of political rights to ancient Greece and Athens in particular⁹ – ancient Greeks conceptualized political rights in much narrower terms. Aristotle’s famous definition of a “perfect *polites*,” or the person who not only had *politeia* but also political rights, defined the latter as the right to be a judge and to occupy political offices.¹⁰ Attending and voting at the popular assembly and sitting on juries, which we would consider political rights, were available even to the thetes, or members of the lowest of Solon’s census class, who had *politeia* but no access to the positions of political officials and judges in Solon’s constitution. This distinction also reflected the fact that while all *astoi* were counted as *politai* “by nature,” only some of them had political rights; other *politai* – including women, children, the elderly (if we believe Aristotle), and the *atimoi* – had none. Athenian *politai* “by decree” found themselves in the same situation: although they enjoyed *politeia*, they still had no access to archonships in the city in the fourth century. The second such factor was the evolving meaning

of *politeia*. This word originally pertained to social and legal parity, as opposed to inequality, in broadly social and legal terms, and was, therefore, viable for use by different political regimes (see appendix 5). It was eventually associated with democracy and was juxtaposed with oligarchy and aristocracy. Over time, therefore, the word *politeia* retained its broadly social meaning and developed a narrower political connotation.¹¹ The status of a *polites* was, accordingly, modified to include political rights. Hence, the loss of *politeia* started to mean not only the loss of a person's social, legal, and economic status but of his political rights as well. This transformation of the meaning of *politeia* happened in connection with the emergence of specific political regimes in Greece in the fifth century, engendering the later perception of Solon's *politeia* as a political regime, and contributing to the retrospective vision of Solon as the father of Athenian democracy and of Athenian citizenship. Not surprisingly, the opinion that the idea of autochthony served as the foundation for citizenship in ancient Athens¹² similarly confuses political capability with other important aspects of individual status, such as membership in the kinship community and in *politeia*, which, unlike political rights, was accessible to women and children.

Later in the sixth century, Cleisthenes reorganized the Athenian political community by providing adult male *astoi* with equal political rights, regardless of the amount of their property, and enrolling them in his newly established deme system. Cleisthenes's *demokratia* was a step forward from Solon's system that only had given the *astoi* social and legal equality, or *politeia*. As all *astoi* were granted both *politeia* and equal political rights, the meaning of the concept of *politeia* also evolved to embrace a political status and a political regime. Another line of continuity between Solon's and Cleisthenes's reforms was that Cleisthenes similarly allotted *politeia* to many non-*astoi*, whom he enrolled in his new territorial tribes but not in his demes. Like Solon, Cleisthenes both secured a special position for members of the kinship community, who were the only people to enjoy political rights in the city as *demotai*, and enlarged the social support for his new regime by turning many people who did not belong to the kinship community into *politai*. There can be no doubt that the "constitution" of Solon, although this was an oligarchy in political terms, was similarly supported by people who had no political rights but enjoyed social and legal equality as *politai*. A similar method was used by the tyranny of the Pisistratids, who offered massive grants of *politeia* and recognized many non-*gnesioi* as *politai* "by nature." The latter people lost their *politeia* when the Athenians overthrew the Pisistratid regime in 510 and held a scrutiny (*diapsephismos*, or *diapsephisis*) that deprived all "people of impure origin" of the right to *politeia* "by nature." However, as has already been suggested, such people made up a big part of Cleisthenes's "new *politai*" (*neopolitai*). Although they lacked political rights (no indication exists that they received deme membership), their newly acquired, or reconfirmed, privileged social and legal status in the *polis* turned such people into supporters of the regime established by Cleisthenes, precluding its overthrow by Hippias and the Spartans. This evidence, collected and examined in chapter 5, shows that, although the possession of *politeia* did not necessarily bring political rights, grants (and withdrawals) of *politeia*

were effectively used by different political regimes, both in Athens and elsewhere in ancient Greece.

A comparison of the reforms made by Solon and Cleisthenes reveals that the interrelationship between the *astoi* (the kinship community), the *politai* (the legal community), and the *demotai* (the political community) adopted different forms in different periods of Athenian history. These forms depended, first and foremost, on how Athenian laws defined relations between individual kinship and legal status on the one hand, and between individual legal and political status on the other. While the usual approach has been to translate *astoi* and *politai* as “citizens,” specific opinions on the meanings of these words have disagreed because not all *astoi* and *politai* had political rights.¹³ For example, women and children had *politeia*, either “by nature” or “by decree,” but no political rights; no firm evidence exists that male recipients of *politeia* also acquired deme membership before the turn of the fourth century, and such new *politai* still had no access to archonships in later times; ethnics, on the other hand, which defined one’s status as a *polites* and have been interpreted as a mark of citizenship, were applied to more than just people who had political rights in the city.¹⁴ The fact that far from all *politai* had political rights undermines the traditional interpretation of *politeia* as citizenship and of *politai* as members of Athenian demes: the person’s birth as a *gnesios* entitled him to political rights and, accordingly, to enrollment in a deme (in post-Cleisthenic Athens), once he reached legal age and had his birth verified. In a similar fashion, Solon distinguished between *politeia* and political rights by reserving the latter only for those *astoi* who met the census requirement, which casts doubts on the modern view of Solon as the founder of Athenian citizenship.¹⁵

An authoritative analysis of city life in ancient Greece has asserted “in the sense of state the *polis* was an exclusively male community of adults with civic rights, who had monopolized political decision-making and administration and excluded all non-citizens. But in the sense of town the *polis* was an economic and social community comprising citizens, metics and slaves of both sexes and all ages.”¹⁶ Dividing the population of ancient Athens and other Greek cities into “citizens” and “non-citizens” fails to consider the complexity of these cities’ social fabric. A privileged individual legal status did not necessarily bring political rights; if we turn to the first of these definitions of *polis*, it appears that even those *politai* who had no right to occupy city offices could still participate in administration through popular assemblies and courts. Although, according to Solon’s “constitution,” all Athenian *astoi* were *politai* “by nature,” some of them, like Solon’s thetes (and maybe the *zeugitae* as well), had no political rights – at least not in the sense of what their contemporaries understood as political rights. Likewise, *politai* “by decree,” including the so-called Plataean *politai*, had no access to archonships and priesthoods, still in the fourth century (see appendix 3). And when we turn to the second definition of the *polis* suggested above, many economic and social rights – such as the right to pay equal taxes, possess immovable property, or move goods into or out of the city’s territory in times of war and of peace – belonged exclusively to the *politai*, either as members of the kinship community or as recipients of *politeia* “by decree,” regardless of whether they had political rights in the city.

For example, all *astoi*, including women and children, had the exclusive right to control immovable property in the city. This right also belonged to *politai* “by decree,” who neither did nor could have membership in the kinship community and, therefore, had no political rights.¹⁷

Disentangling the individual kinship, legal, and political status also undermines modern theories that identify *politeia* with citizenship; argue for the existence of degrees, or levels, of “ancient Greek citizenship”;¹⁸ and assert that grants of *politeia* had to be activated into “full” or “complete” or “real” citizenship. While it is quite possible to speak about the legal status of non-citizens, which can be more or less close to that of the citizen, or about the acquisition of some of the legal and other rights that belonged to citizens, it is simply impossible to be a little of a citizen. Like pregnancy, citizenship can either be or not be. Most important, since the meaning of *politeia* cannot be reduced to political rights, no basis exists for using the evidence on *politeia* to speak about “degrees” of “ancient Greek citizenship” or about the “activation” of *politeia*, which supposedly took the form of its recipient’s taking residence in the granting city or being enrolled in one or some of that city’s social organizations, according to modern theories that were examined in chapters 3 and 4. If one still wishes to establish parallels with modern realities, the status of a permanent resident cannot simply be “activated” into that of a U.S. citizen. The latter status must be obtained through a separate procedure. Nor was this “activation” necessarily required in ancient Greece. Likewise today, someone can be a permanent resident for years without ever becoming a citizen – or, in other words, without acquiring political rights – even when he or she lives in the territory of the United States for all this time. Theories about “naturalization” in ancient Greece have no basis either, since they deal almost exclusively with evidence about *politeia*, which did not necessarily entail the possession of political rights.¹⁹ This also explains why Athenians and other Greeks could possess two or more *politeiai* while enjoying political rights in one city or having none at all. The understanding of *politeia* as a social and legal status also removes the grounds from endless attempts to calculate the number of ancient Greek and, in particular, Athenian “citizens,” most of which rely on the evidence about *politai*, who might or might not have had political rights.²⁰ These attempts serve, in turn, as the basis for other ideas, including, for example, the opinion about the date of the emergence, and the meaning, of metic status in Athens.²¹

Drawing fine lines between the status of an *astos*, a *polites*, and a *demotes* also helps us to clarify the meaning of the scrutinies (*diapsephismoi* or *diapsephiseis*) which emerged in Athens in the late sixth century and continued for two hundred years. Their primary purpose was to verify that only *gnesioi*, or people of legitimate birth, enjoyed the privileged status of *politai* “by nature.” If someone was found to be a non-*gnesios*, that person was expelled from the kinship community and lost his status of a *polites*. However, the role of such scrutinies changed under the influence of Cleisthenes’s reforms. Not only did Cleisthenes give *politeia* to all *astoi* by virtue of their birth, thus restoring Solon’s constitution, but he also made all of the adult male *astoi* politically equal as *demotai*. After this, a person detected as a non-*gnesios* lost both his *politeia* and political rights with deme membership.

This is the reason why *diapsephismoi* have been seen as scrutinies of citizen status. However, the loss of political rights and, accordingly, deme membership was only collateral damage of the *diapsephismoi*. Another outcome of this situation was that *politeia* started to be associated with an individual's political status and, accordingly, a specific political regime. Therefore, after Cleisthenes's reforms, the loss of political rights also meant a loss of *politeia*, as happened during the oligarchies of the Four Hundred and the Thirty. On both occasions, the oligarchs not only deprived many *astoi* of their political rights but also of their *politeia*, thereby stripping them of important legal, economic, and social privileges, and leaving them legally and personally unprotected. Finally, while Solon laid down basic social norms that continued in this or that way under different political forms, Cleisthenes established a specific political regime, which was based on Solon's principle of legitimate birth and which evolved into what came to be known as *demokratia* by the mid-fifth century.²² This relationship between *politeia* and *demokratia* offers a better explanation than an anti-democratic conspiracy or a pro-democracy plot for why later Greeks saw Solon as the author of Athenian democracy and why Cleisthenes's role was eventually nearly forgotten.²³

This understanding of Solon's and Cleisthenes's reforms allows us to have a better look at the relationship between one's status in the city and one's membership in its social divisions. A common view has been that a person's membership in social organizations determined his rights in the city. It appears, however, that, just the other way around, membership in city organizations only institutionalized, and confirmed, this person's status, which was primarily determined by his or her birth. For example, when someone wanted to enroll his child in his *genos* or phratry, he had to swear a sacred oath that his was a legitimate (*gnesios*) son or daughter (cf. Isae. 3.73). One's legitimacy came first, followed by membership in different organizations which reflected his or her rights and privileges. In post-Cleisthenic Athens, kinsmen (*astoi*) were members of *gene* (as members of the kinship community), tribes (as *politai* "by nature"), phratries (as legitimate successors to their fathers), and – in the case of males who reached the prescribed age and verified their birth through a special scrutiny – demes, as people who had political rights in the city.²⁴ Being a member in one such organization did not necessarily lead to membership in another. It would be a mistake to present the development of Athenian society as a linear progression from one type of community to another, or to think of the Athenian community as a simple agglomeration of social organizations (*gene*, tribes, phratries, demes) which all included people with the same status and only differed by their size. Using evidence about such entities as referring to "citizenship" in Athens and other ancient Greek cities misses the mark.²⁵

The ways in which Solon and, later, Cleisthenes organized the Athenian kinship, legal, and political communities in the sixth century had several important consequences for the future development of Athens, including her increased social and political vitality. Solon ended the bipartite division of Athenians into *astoi*, as members of the kinship community (who were the only people to have political, legal, and economic rights in the city), and the rest. He created the

community of the *politai*, which consisted of both the *astoi* as *politai* “by nature” and (some of the) aliens as *politai* “by decree,” thus endorsing opportunities for greater social mobility. Conversely, one of the reasons for Sparta’s decline was her social rigidity, displayed in the inability of the Spartans to develop, at least to the same degree, a status similar to that of *politai* in Athens and other cities. According to Strabo, helots allegedly had equal rights and “shared in *politeia* and offices” in early Sparta.²⁶ However, even if Strabo’s information is correct, this situation did not last long, and the Spartans failed to establish a viable system of extending *politeia* to non-*astoi*. For this reason, it seems, King Cleomenes III’s reforms of the Spartan state and society in the late third century included turning some aliens (*xenoi*) into “Spartans” (*genomenoi Spartiatai*), with the aim of enlarging the Spartan *politeuma*, which has been interpreted as a replenishment of Sparta’s citizen body.²⁷ Parallels with Athens and other ancient Greek cities show, however, that Cleomenes’s aim was to significantly enlarge, or maybe even create, the community of *politai*, which would also have included the people who stood outside of Sparta’s kinship community (see chapter 5).

Such evidence pertains to a larger problem of incorporating outsiders in the ancient world. This problem has usually been studied with reference to how the Romans established degrees of incorporating aliens into the Roman community – without necessarily granting them “Roman citizenship” – by allotting them the right of marriage (*conubium*), the right to make contracts and perform economic and legal transactions (*commercium*), the right to participate and vote in the assembly (*suffragium*), and, finally, “citizenship without vote” (*civitas sine suffragio*), which allegedly carried all the rights of a citizen except for the right to vote.²⁸ The basic premise of comparing the rights and status of aliens in ancient Rome and Greece has been to emphasize a distinction between the “generous” (Roman) and “avaricious” (Greek) approaches to grants of “citizenship.”²⁹ However, ancient Greeks appear to have developed a system quite similar to that used in Rome: they not only granted various individual rights and privileges to outsiders but also created the status of *politai*, which *astoi* and non-*astoi* shared in common.³⁰ It is the *politai* – neither the totality of all the residents of Athens nor only the *demotai*, or “citizens” – who were defined as “Athenians” in documents from Athens and on Athenian coins, like the one, dated to the sixth century, whose image graces the frontispiece of this book. Since being a *polites* did not necessarily imply the possession of political rights, grants of *politeia* do not support either the conclusion about a “more open policy of naturalization” in Athens or elsewhere in ancient Greece,³¹ or the idea about “degrees” of “ancient Greek citizenship.” Evidence for grants of *politeia* as the means through which the Greeks incorporated outsiders might cast a new light on the important role of the kinship community in defining relations between different population segments in ancient Rome. The other major aspect of the Athenian policy of incorporating outsiders concerns the regulation that *politai* “by decree” – who automatically received the right to possess immovable property in the territory of Attica, or the right of *enktesis* – could arrange engytic marriages with female members of the Athenian kinship community, or the *astai*. While such *politai* neither did nor could belong to the

kinship community themselves, their children were acknowledged as “legitimate” (*gnesioi*) and incorporated in Athenian *gene*. We do not know exactly when this practice emerged. However, if Greek authors were right in believing that grants of *politeia* “by decree” started to be given out by Solon, then this practice, too, was probably authored by the great lawgiver.

Looking at the social fabric of Athens and other ancient Greek city-states requires both synchronous and diachronic perspectives. From the former, a person’s status was revealed by his participation or non-participation in some or all of the three main social communities in the city. A visiting foreigner belonged to none of them, which reflected a severe limitation to his social, legal, economic, and political rights in the city. Someone else, like an *aste* (or a *gnesia* female), belonged to the kinship community and, consequently, was a *politis* “by nature,” but she had no political rights. An alien could receive *politeia* “by decree,” and, therefore, occupy (almost) the same privileged legal and economic status as that of the *astoi*. However, he never joined the Athenian kinship community, and he had no political rights, at least before the fourth century.³² Different types of communities defined the correspondingly different pairs of “insiders” and “outsiders”: *politai* vs. metics, *gnesioi* vs. *nothoi*, and *astoi* vs. *xenoi*. The same person could be a member of more than one such pair, which raises the importance of a diachronic approach because, as noted above, these communities not only developed over time, but the ways they interacted were also evolving accordingly, and different principles of inclusion and exclusion could be applied. Thus, kinsmen could be juxtaposed with non-kinsmen and with *demotai*, or with the kinsmen who had political rights, while *politai* could be juxtaposed with aliens and with those kinsmen who were *politai* “by nature.”

The evidence about the diverse interactions of the three Athenian communities reveals a conscious policy to protect the exclusive status of Athenian kinsmen, which both the reforms of Solon and of Cleisthenes pursued in the sixth century.³³ These reforms simultaneously operated on two levels – by defining an individual’s social and legal status on the one hand, and his political status on the other – with the aim of homogenizing the kinship community and separating it from the rest of the city population. Early in the sixth century, Solon cut across the clan and household loyalties of the *astoi* with the help of his laws on legitimate births, heiresses, guardians, dowries, and adoptions (see chapters 1 and 2), and he equally granted them all the status of *politai* “by nature,” to use the word applied to his reforms by later Greeks (see chapter 3). Similar regulations in the Gortyn Code and the laws of Charondas reflected the same process of homogenizing the kinship community at a time when more and more non-*astoi* were receiving social and legal rights, or *politeia*, in Athens and other cities (see chapters 4 and 5). This perspective casts a new look at Cleisthenes’s reforms later in the sixth century. Cleisthenes gave *politeia* to many non-*astoi*, who became enrolled in the new territorial tribes, while allotting equal political rights only to the *astoi*, who became exclusive members of his newly established deme system (see chapter 6). In this fashion, Cleisthenes further separated and homogenized the Athenian kinship community. The Athenian *demokratia*, which had its roots in Cleisthenes’s

reforms, was, therefore, a kinship democracy. This fact not only reinforces the importance of the interactions between the kinship, legal, and political communities for the development of Athens in the sixth century and later times, but also undermines numerous attempts to approach Athenian social and political history from modern premises and points of view.

Notes

- 1 Finley (1973, 20–22). For this perception of *oikonomia*, see, e.g., Arist. *Pol.* 1.2.2–4, 1253b.1–33.
- 2 S. Dmitriev, in *Annali della Scuola Normale Superiore di Pisa. Classe di Lettere e Filosofia*, ser. 5, vol. 1.1 (2009), 121–161 and in *The Economic History Review* 62 (2009), 785–801.
- 3 For example, much, if not everything, in Ober's *Athenian Revolution* has been based on the identification of *politeia*, or “constitution,” with a political regime.
- 4 E.g., Walters (1983, 319): “non-citizens (even metics) were foreigners; *tertium quid non datur*”; Bleicken (1994, 347) (*astos* vs. *xenos*); Harris (2013b, 22): “The Athenians also made a clear legal distinction between citizens (*politai*) and non-citizens, who were divided into metics and foreigners (*xenoi*).” For the criticism of this view, see Bertazzoli (2003, 232), who distinguished freedmen and *nothoi* as a separate group.
- 5 E.g., Arist. *Ath. Pol.* 7.3 and Plut. *Sol.* 18.1–2.
- 6 E.g., Pl. *Rep.* 6, 502b.7–9; Arist. *Eth. Nicom.* 1102a.9–10; Aristoxen. fr. 50.45–48; Diog. Laert. 8.88 and 9.23; Aristid. 53.3, 25; Plut. *De unius in rep. domin.* 2.
- 7 Aeschin. 1.6; *Rhet. ad Alex.* 2.21; Liban. *Progymn.* 7.4.4. Cf. Arist. *Eud. Eth.* 7.9.1, 1241b.13–17.
- 8 E.g., Isocr. 4.105; Arist. *Pol.* 4.6.4, 1294a.12–14; cf. Plut. *Sept. Coviv.* 154c9–d7.
- 9 E.g., Hansen (1991, 97): the right to attend the assembly, to be a magistrate, or a legislator, or a juror.
- 10 Arist. *Pol.* 3.1.4, 1275a.14–27 (see page 159, n. 48).
- 11 See Dmitriev (2015b, 68–83).
- 12 Most prominently, Loraux (1993, 37–41, 46): autochthony as a “civic myth” (but that myth was applicable to the status of more than just those people who had political rights); Osmers (2013, 161–162, 165, 171) (see page 83, n. 33).
- 13 For these interpretations, see pages 160–161, nn. 63–72.
- 14 Cf. Anderson (2003, 13): “each citizen was encouraged to imagine himself a member of a single, extended, undifferentiated community of ‘Athenians.’”
- 15 For this perception, see page 156, n. 1.
- 16 Hansen (1997, 17).
- 17 For the opinion that landownership in ancient Greece belonged exclusively to “citizens,” see, Hansen (1991, 97); Mossé (1995, 24); Lape (2010, 201); Harris (2013b, 22), and page 122, n. 74.
- 18 E.g., Cartledge (1996, 177 n. 25); Avramović (1997, 247); Blok (2013, 163): “even in classical Athens citizenship was not described as participation in political office.”
- 19 E.g., M. J. Osborne, in *ABSA* 66 (1971), 304; Kapparis (1995a, 359–378).
- 20 The corresponding bibliography is immense; specific works include Gomme (1933); Hansen (1985); Ruschenbusch (1985, 253–263); Rhodes (1988, 271–277); M. H. Hansen, in *Echos du monde classique* 38 (1994): 299–310 and Hansen (2006, 108–109); Gallo (2002, 33–42); Oulhen (2004, 258–265). The alleged ratio between citizens and non-citizens in ancient Greece: Mossé (1995, 45–46). Overviews of historiography: Blok (2007, 309–311); Schmitz (2014a, 131–132).
- 21 E.g., J. Watson, in *The Cambridge Classical Journal* 56 (2010), 260–264 (on the “number of citizens” in Athens), 264–276 (on the origins of metic status).

- 22 For the theory of the “radicalization” of Cleisthenes’s regime, see pages 210–211, nn. 104–112, and page 252, n. 133, with Dmitriev (2015b, 75–82).
- 23 E.g., Fuks (1953, 112–113); Effenterre (1985, 276); Lévêque and Vidal-Naquet (1996, 3–4); Develin and Kilmer (1997, 3–4); Loraux (1997, 5); Anderson (2003, 132); Hall (2014, 241); Flaig (2011, 59–66), who explained the rising prominence of the image of tyrannicides in later Athenian historical memory, and the eclipse of the memory of Cleisthenes, by the desire of Athenians to forget about the stasis of 507. However, while this might have been one of the reasons for the popularity of the story of Aristogeiton and Harmodius in later times, it still does not explain the very limited attention paid to Cleisthenes by later generations of Greeks. For Solon as the founder of Athenian democracy in later Greek tradition, see chapter 4 and also page 299, n. 21.
- 24 Cf. a similar conclusion by Paoli (1930, 215), who, however, assigned a different value to such organizations: “the full enjoyment of patrimonial rights by a *polites* required membership in a deme, just as membership in a tribe was necessary for full enjoyment of political rights.”
- 25 Using this approach to other cities: Ehrhardt (1983, 98–103); Hölkeskamp (1993, 412); Engelmann (1996, 95–97, 99).
- 26 Strabo 8.5.4, C 364–365. Cf. Arist. *Pol.* 2.6.12, 1270a.30–37.
- 27 Plut. *Cleom.* 10.11 and 11.3, respectively. Africa (1961, 15, 62–63); Cartledge (2012, 332).
- 28 E.g., Sherwin-White (1973, 30–35, 39–50, 103–107); Humbert (1978, 98–105, 304–305) (on such practices by other peoples in Italy, which evidently influenced their use by the Romans); Nicolet (1988, 23–30); Coşkun (2009, 31–34).
- 29 See esp. Gauthier (1974, 207–215), developed in 1981, 167–179; repr. in Gauthier (2011, 3–12, 13–34), respectively. For this view, see also Sinclair (1988, 26–27); Hansen (1991, 94); Whitehead (1991, 145); Sealey (1994, 88); Meier (1996, 47–48); Eder (1997, 821); Deene (2011, 160). Pace Patterson (2009, 66); Osborne (2011, 105); Roubineau (2015, 319–326), whose arguments against establishing this distinction differ from mine.
- 30 See, e.g., Tamiolaki (2008, 53), who pointed to the grant of *politeia* in connection with the battle of Arginusae, which she qualified as a grant of citizenship; see page 204, n. 5.
- 31 Cf. Patterson (2007, 162).
- 32 E.g., Blok and Lambert (2009, 104 n. 63): “the decree specifies that the Plataians were to be admitted to demes and tribes, and in other cases enfranchised foreigners are admitted to phratries, but neither this decree nor any other extant naturalization decree grants enfranchised foreigners admission to *gene*.” For the *politeia* of the Plataeans, which has been interpreted as citizenship, like in this excerpt, see appendix 3.
- 33 If we put information from legends and myths aside (see introduction), the earliest available evidence for the policy that was aimed at homogenizing the Athenian kinship community by cutting across its divisions concerns the laws and institutions whose authorship later Athenians ascribed to Draco: see chapter 2.



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Appendix 1

The “citizenship of bastards”

The view rejecting the possibility of bastards (*nothoi*) having citizenship in ancient Greece has been challenged by those who believe that bastards could be citizens and be registered in the demes of post-Cleisthenic Athens. Among others, Alick R. W. Harrison has defended the idea of bastards as citizens in Athens by pointing to Solon’s “law excluding bastards from inheritance” and Pericles’s “law on citizenship.”¹ However, it was the *politeia* established by Solon that determined a person’s right to inherit by virtue of his status as a legitimate (*gnesios*) child and, therefore, as a member of the kinship community of the *astoi*. This had no immediate relevance to political rights, or citizenship. The women of the kinship community also had the right of inheritance, or *anchisteia*, in Athens, without possessing political rights (see chapter 1). The so-called Pericles’s law merely reinforced the rule, which later Greeks also ascribed to Solon, that only legitimately born people, or *gnesioi*, had the right to *politeia* “by nature.” If a scrutiny (*diapsephismos*) took place and someone was acknowledged to be a non-*gnesios*, that is to say, a bastard (*nothos*), he lost *politeia* “by nature,” as well as his political rights with deme membership, since all adult male *astoi* had equal political rights and, accordingly, deme membership after Cleisthenes’s reforms (see chapter 6 and appendix 6). The possession of *politeia* did not lead to the possession of political rights, nor was the other way around true: both privileges were pegged on one’s birth. Aside from this, the evidence actually shows that bastards neither could nor did have deme membership, that is, political rights or citizenship.

Although he approached these arguments from a different premise, Douglas M. MacDowell still correctly observed their weakness. However, he also adduced three pieces of evidence as proof that bastards were counted among citizens. They have failed to convince Peter J. Rhodes, who critically evaluated MacDowell’s interpretation of each of the three instances.² As it turns out, both camps in this debate not only rely on the evidence about *politeia*, which they a priori identify with citizenship, but they also confuse different aspects of individual status (kinship, legal, and political) in ancient Athens and Greece overall. This appendix offers a reassessment of the evidence discussed by MacDowell and Rhodes by refusing to approach the free population of Athens as having been divided into citizens and non-citizens, which has been the traditional perception. Instead, it follows the perspective adopted in this book, which holds that free Athenians – with

the exception of aliens who could receive a form of (political and/or legal) incorporation, or specific legal and/or economic privileges on an individual basis – formed the kinship, legal, and political communities. These communities partially overlapped, and the same person could be a member of one or two or all of them, depending on his origins and the political regime in the city.

The first of these three pieces of evidence – the words of Aristotle (*Ath. Pol.* 42.1) that "*politeia* belongs to those who are *astoi* on both sides, and they are registered on the rolls of their demes at the age of eighteen" – has been used to support the idea (expressed by MacDowell, among others) that marriage was not necessary to produce legitimate (*gnesioi*) children and, therefore, bastards could have citizenship as well.³ However, as argued in the first chapter, engyetic marriage was necessary to produce *gnesioi* because even if both parents were *astoi*, i.e., members of the kinship community, this alone was not enough to determine the status of their children. Female *astai* also lived as prostitutes and concubines, and their children were not counted as legitimate, which made up the essence of many fourth-century legal speeches on inheritance. Their orators did not necessarily deny that the women involved in these cases were *astai*, but they tried to prove that these women lived outside of engyetic marriage and, therefore, their children were neither legitimate nor, accordingly, entitled to inherit the property of their fathers or grandfathers (one such example is Isaeus's speech on the estate of Pyrrhus, which is examined below in this appendix). Hence, a typical reference made in support of someone's legitimate status was his birth from an *aste* and an *engyete* mother.⁴ The very idea of a "bastard" derives from someone being "born out of wedlock," i.e., not in a legal marriage, which determined this person's social and legal status. What would have been the point of specifically referring to someone as being born out of the wedlock, i.e., as a *nothos*, if this person had the same status as children born in engyetic marriage? In addition, the information about someone's legitimate birth had no immediate relevance to this person's political rights, or citizenship, because this information referred to not only males but also females and children. Even legitimately born females and children had neither political rights nor, accordingly, deme membership (see chapter 6). This approach, therefore, confuses membership in the kinship community and political community: they were intricately connected but not identical.

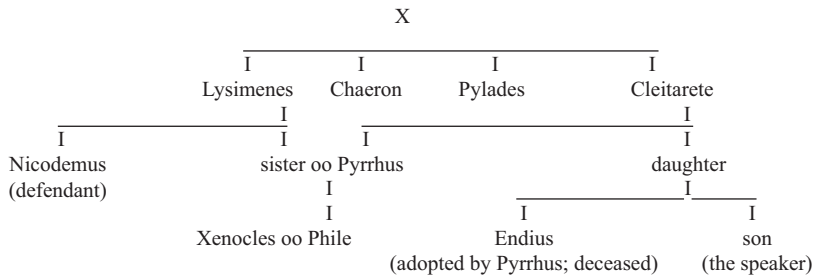
The second piece of evidence adduced in such discussions concerns the formal impeachment of Archeptolemus and Antiphon, which, according to MacDowell, "clearly implies that illegitimate descendants of Athenians normally have citizenship."⁵ According to *The Lives of Ten Orators*, the two men were condemned to capital punishment, confiscation of all property, demolition of their houses, deprivation of the right of burial in Attica, and hereditary *atimia* (that is, *atimia* extended to descendants) for their participation in the oligarchy of 411.⁶ However, provided the Athenian law against tyranny was authored by Draco, or that it belonged to an even earlier period, this law would only have been concerned with the affairs of the kinship community (see chapter 1). This law, therefore, neither did nor could be expected to differentiate between the status of

legitimate children (*gnesioi*) and bastards (*nothoi*), which was only established later by Solon, who distinguished *gnesioi* as children born to two *astoi* in engytic marriage.⁷ The Athenian law against tyranny certainly talked about *genos* or “children” in general. Andocides reveals a similar approach when he (1.74) says that, before the battle of Aegospotami, the Athenian *atimoi* included thieves and bribe-takers, who were *atimoi* “together with their posterity” (*toutous edei kai autous kai tous ek touton atimous einai*). A speech by Demosthenes (23.62) quoted a statute punishing both the one who changed the laws of Draco “and children” with *atimia* (*atimon einai kai paidas kai tou ekeinou*). And a restored Athenian decree seemingly suggested the same sort of punishment for any person who attempted to establish a tyranny, as well as “his children.”⁸ The need to state precisely that both legitimate and other children of Archeptolemus and Antiphon – in other words, all those related to them by blood – were to be punished by *atimia* reflected the evolution of the Athenian community from the late seventh to the late fifth century.

The idea that *atimia* always meant disfranchisement – and, therefore, any *atimos* was a citizen before being subjected to this punishment – is also challenged by the evidence that *atimia* could be a punishment for people who did not have political rights in the city, or might not have even lived in it. Rhodes has pointedly referred to Demosthenes’s third speech against Philip, in which the orator mentioned the Athenian decree condemning a certain Arthmius of Zelea, who brought Persian gold to the Peloponnesus, probably in the 470s.⁹ The decree proclaimed Arthmius “an outlaw and enemy of the Athenians” (Dem. 9.42: *atimos kai polemios tou demou tou Athenaion*), extending this punishment to his children and entire family (Plut. *Them.* 6.4: *touton eis tous atimous kai paidas autou kai genos enegrapsan*). Demosthenes himself (9.44) confirmed that this punishment was not the same, commonly understood *atimia* (*touto d’estin oukh hen outosi tis an pherei en atimian*), since it implied the right of anybody to kill Arthmius, and members of his family (*genos*), without being prosecuted for the murder if Arthmius ever stepped onto the Attic soil (9.44–45): “anyone slaying a member of Arthmius’s family would be free from blood-guilt.”¹⁰ Another example was Euthycrates of Olynthus, who was accused of having betrayed his native city to Philip II of Macedonia.¹¹ Although a foreigner, Euthycrates was declared an *atimos* by the Athenians, who thus punished him for his betrayal of Olynthus and of Greek freedom (the *Suda*, II 2539). Such evidence shows both the evolution of the meaning of *atimia* and the survival of its original broadly social connotation, which went beyond the narrow legal definition of an individual’s standing, even into later times.

The last of the three pieces of evidence put forward by MacDowell in support of the view that bastards were counted as citizens in ancient Athens is Isaeus’s speech on the legal dispute between two claimants for the estate of the late Pyrrhus. The property became available after Endius – a nephew of Pyrrhus (through Pyrrhus’s sister), whom Pyrrhus adopted and made his heir – died without leaving a child. One of the claimants was Pyrrhus’s allegedly legal daughter, Phile, whose husband Xenocles had tried to secure the estate on her behalf. The other claimant

was the only surviving nephew of Pyrrhus, i.e., the son of the same sister as the late Endius, as illustrated by the following stemma:



The surviving nephew of Pyrrhus, who remains unnamed, is the speaker. His main task is to demonstrate that Phile has no right to Pyrrhus’s estate. For this reason, the plaintiff alleges that Phile was not born to an engyetic marriage between Pyrrhus and Nicodemus’s sister, and also asks the following question (Isae. 3.45):

When Endius was betrothing your niece to Xenocles, Nicodemus, did you allow the daughter born to Pyrrhus of a lawfully wedded wife (*ten ek tes engyetes to Pyrro gegenemenen*) to be betrothed as if she were a child of a mistress (*hos ex hetairas ekeino ousan engyasthai*)?

MacDowell has interpreted this passage in the sense that “it was possible for a bastard daughter to be given in marriage to an Athenian citizen.”¹² Rhodes, who admitted that “the most straightforward interpretation of the texts supports MacDowell’s conclusion – if a bastard could enter into a formal Athenian marriage, bastards ought not to have been debarred from Athenian citizenship” – tried to undermine it with reference to two potential legal loop-holes. First, it may also have been presumed that Phile “was not illegitimate when he (i.e., Xenocles) married her,” and, second, “a woman who was Athenian but illegitimate, who had been brought up in her father’s household, may although not legally a *politis* have been able in practice to marry as if she were.” But this argument also appears to be problematic. It is hard to imagine how a “legitimate” wife could turn into an “illegitimate” one (and, as far as we know, no one ever objected to or raised doubts about the legal validity of the marriage of Phile and Xenocles during those eight years), whereas Rhodes’s second observation confuses the legal status of a *polites* in the city with the status of a legitimately born child (*gnesios*) who became an *astos*, or a member of the city’s kinship community, by virtue of his birth.¹³

We do not have to believe everything the speaker says. He refers to the preceding trial, in which Xenocles was allegedly convicted of “having given false evidence,” so that the jurors issued “a verdict for perjury against him” (4). However, he does not say and we do not know what that “false evidence” was, exactly, that incriminated Xenocles (5), nor how it affected the outcome of the first trial. Also, according to the speaker, “that in the former trial Nicodemus’s evidence was

recognized as being false, the condemnation of the witness (i.e., Xenocles) on that occasion most clearly proves" (5). But Xenocles's alleged perjury does not necessarily overturn everything Nicodemus said, and the speaker makes no mention of an official verdict that Nicodemus's evidence was false. Nor does the fact that Phile allegedly "abandoned her pretensions to the estate (of Pyrrhus) (*apostases tou klerou*)" prove that "Nicodemus's evidence has been also condemned," as the speaker asserts (6), particularly since he still needs to undermine this evidence at the current trial. Elsewhere, the speaker says "those who judged the case gave a proper and a legal sentence when they decided that the estate could not pass to a woman of irregular birth (*te me orthos gegenemene gynaiki*) (12). The speaker tried to add validity to his stance with reference to this statement by the jurors. But the jurors had simply repeated a general, well-known regulation that only legitimate (*gnesior*) children could inherit the patrimony,¹⁴ whereas Phile never conceded that she was Pyrrhus's illegitimate daughter. Nor does the fact that Pyrrhus adopted Endius imply that "he thereby sought to bastardize" Phile, as the speaker insists (41). It was typical for adopted sons to be married to or put in charge of the adopters' daughters.¹⁵ The fact is Phile continued to live in Pyrrhus's household after his death and, as the speaker himself mentions, it was Endius who gave Phile in marriage – as his legitimate sister (*hos gnesian adelphen*) – to Xenocles (45, 58). These details are important because, both here and later, the speaker appears to be short on hard evidence. Hence, he conjectures in front of the jurors on the basis of bits and pieces of indirect evidence, which he tries to tie together with the help of bold statements and rhetorical questions.

At base, the speaker offers two lines of argument. The first is that Pyrrhus and Nicodemus's sister did not live in an engytic marriage and, therefore, Phile was illegitimate. He alleges that Phile's mother behaved like a courtesan, pointing to evidence about "quarrels, serenades, and frequent scenes of disorder which the defendant's sister occasioned whenever she was at Pyrrhus's house" (13–14, 16), the presence of only one witness at the marriage (18), the small amount of the dowry (8), and the absence of a dowry agreement (28, 30, 36).¹⁶ But the behavior of Nicodemus's sister finds an easy explanation in the significant degree of freedom of action that Athenian married women enjoyed, especially those of poor families.¹⁷ Aristotle observed that they frequently had to leave their houses, and he saw this situation as typical for democracy.¹⁸ Dowries varied significantly in size from marriage to marriage, allegedly from 300 to 6,000 drachmas on average, and some marriages appear to have involved no dowries at all.¹⁹ The MSS list Phile's dowry as 3,000 drachmas, although modern editions uniformly change this amount to 1,000 drachmas on the basis of the speaker's reference to her dowry not equaling even a tenth of the total value of Pyrrhus's estate, which allegedly totaled 18,000 drachmas. While we have no reason to believe the speaker regarding the size of Phile's dowry, both the amount preserved in the MSS and the modified amount suggested by modern authors fit the suggested range, although a dowry of 1,000 drachmas would have certainly been on the low side of the scale. However, it is also true that an "heiress" could be so poor that if her *kyrios* did not want to marry her, he was legally required to provide her with a dowry commensurate

with the amount of his wealth.²⁰ The small dowry was, therefore, nothing special; it was considered a perfectly solid reason for a *kyrios* not to marry the heiress himself. In short, neither the behavior of the woman nor the fashion in which Endius gave her in marriage constitutes a decisive argument against the status of Phile as Pyrrhus's legitimate daughter.

Realizing the weakness of this case, the speaker advanced his second line of argument by reinforcing the idea that Endius gave Phile in marriage as if she were the "child of a mistress" (45, 48, 52: twice). This is where the question we saw above belongs: "did you, Nicodemus, allow the daughter borne to Pyrrhus by his legitimate wife to be married in the quality of the 'child of a mistress'?" The speaker again pointed to Phile's small dowry, and the fact that Endius did not marry her himself. However, a reference to the small amount of the dowry was not a valid argument at all, whereas once Endius gained control of Pyrrhus's estate, he had no need to marry Phile, who was, in fact, a small girl at the time. Having no immediate family connection to her, Endius was eager to provide as small a dowry to Phile as possible, and marry her off elsewhere. The situation implied in the speaker's question has been misinterpreted. Of course, it was possible for a non-*aste* to be given in engytic marriage.²¹ But this was illegal and punished by *graphe xenies engyes*, and attempts to reinterpret the law on the basis of evidence for its violation are misplaced.²² The former public prostitute Neaera and her partner Stephanus married one of Neaera's daughters twice (!) to Athenian *astoi* ([Dem.] 59), each time passing her as Stephanus's legitimate daughter by Neaera. By virtue of arranging such marriages, they also claimed that Neaera was an *aste* and the *engyte* wife of Stephanus. This practice has nothing to do with the "citizenship of bastards."²³ When someone had a woman betrothed on the pretence that she was his legitimate daughter, such betrothals were invalid, and children born in this marriage were not acknowledged to be legitimate.²⁴

The speaker in Isae. 3.45 does not say, however, that Pyrrhus's illegitimate daughter was married as an *engyte*-wife to Xenocles. Nor does he say that Phile was an illegitimate daughter and was married as such.²⁵ What he says is just the opposite: a legitimate daughter was allegedly given in marriage as if she were the "child of a mistress."²⁶ It was not the status of Phile as a legitimate child that the speaker was disputing in this place but the status in which she had been given to Xenocles. His argument rested on the small dowry given to Phile (3.51) and Phile's double name, since a name change could indicate a woman's status as a *hetaira* because *hetairai* were often given nicknames.²⁷ As was argued in the first chapter, cases in which legitimate (*gnesiai*) daughters were married out as *pallakai* appear to have been quite widespread. An *aste* could be given in marriage in the status of the "child of a mistress" for a variety of reasons, including a chance to pay a smaller dowry or no dowry at all, and to deny her children an equal share of a patrimony. This certainly had a negative impact on the well-being of the kinship community. And, therefore, the Archon, who supervised the affairs of the kinsmen (see chapter 1), had a special responsibility to prevent such marriages (e.g., Isae. 3.45–47, 51). One might say that by arguing that Endius gave and Nicodemus married Phile as if she were the "child of a mistress," the speaker confirms her status as a *gnesia*

and, therefore, supports her claim to the estate of Pyrrhus. Regardless of whether Phile was married in engyetic marriage or as the “child of a mistress,” a *gnesia* still remained a *gnesia* and, thus, a legitimate heir. However, if she had not been married as an *aste* and *engyete* wife, then she neither could nor did produce legitimate children; hence, the estate of Pyrrhus then had to be returned to the nearest legitimate kin, that is, the speaker or his legitimate children. It was not the status of Phile but her children that was the ultimate target of the speaker.

In sum, none of the three pieces of evidence brought forward by MacDowell supports the view that bastards had political rights in ancient Athens. In addition, corresponding studies appear to have confused different aspects of an individual’s status in ancient Athens and Greece in general. Bastards could certainly receive *politeia* as a grant, that is, similar to any outsider who showed himself to be a benefactor of Athens, but they neither did nor could receive it by virtue of their birth, i.e., like *gnesioi*, according to the regulation introduced by Solon early in the sixth century. When situations occurred that allowed bastards to become *politai* “by nature,” usually as part of major political upheaval and the establishment of a new political regime, Solon’s rule would be reinforced after the downfall of the regime, with the help of scrutinies, or *diapsephismoi*, as we saw in chapter 5.

Notes

- 1 Harrison (1968, 65). Cf. Bickerman (1975, 16); MacDowell (1976, 88): children born outside of an engyetic marriage enjoyed citizen rights but had no access to family cults and inheritance. For the citizenship of bastards, see also Ruzé (1997, 394–397). For Pericles’s law, see chapter 5.
- 2 MacDowell (1976, 89), and a similar approach in Sealey (1984); Rhodes (1978, 89–92).
- 3 MacDowell (1976, 89). See also, e.g., Walters (1983, 317): “What is to be noted is that Perikles’ law said nothing about marriage. Thus, it did not exclude from citizenship bastards.”
- 4 E.g., [Dem.] 59.59–60; Isae. 7.15–16, 8.19 (see page 43, n. 9).
- 5 MacDowell (1976, 88); a similar stance: Walters (1983, 318); Sealey (1984, 127); Carawan (2008, 399).
- 6 [Plut.] *Antiph.* 834a. This traditional explanation (see preceding note) has been questioned by Edwards (2004, 82–83), who, however, spoke only of Antiphon and argued solely on the basis that some other members of the Four Hundred, such as Theramenes and Andron, are not known to have been subjected to this punishment.
- 7 M. Ostwald, in *Transactions of the American Philological Association* 86 (1955), 103, 108 traced this legislation back “as far as Draco”; cf. Meritt (1952, 358 n. 36): “this law against tyrants goes back to the time of Solon.” See, in general, Dmitriev (2015a, 45–50).
- 8 On attributing Dem. 23.62 to Solon, see Ruschenbusch (1966, F 22); Bringmann, in Ruschenbusch (2010, 52); and Leão and Rhodes (2015, 35). For its authenticity, see Canevaro 2013, 71–73. *IG* I² 10.32–34: ἐὰν δ(έ) τις ἀ(λ)ω[ι] προδιδ[ω]ς . . . τοῖς τυράννοις τῆμ(πόλι) [ν] (τὴν) Ἑρυθραίων, καὶ [αὐτ]ῶς [νηπο] (νε)ῖ τ(ε)θνάτω [κ] (αἰ) [οἰ] παῖδε(ς) ἡοῖ ἐχ(ς) ἐκ(εῖν)ου. However, David Lewis (*IG* I³ 14) has preferred neither to accept this restoration nor to offer his own.
- 9 For the mission of Arthmius, see Swoboda (1893, 49–68), further elaborated in Swoboda (1905, 1–42), and M. Cary, in *CQ* 29 (1935): 177–180. The skepticism of C. Habicht, in *Hermes* 89 (1961), 18–19, 24, 27 has been overturned by Meiggs (1972, 508–512); Manville (1980, 220–221).

- 10 This interpretation: Rhodes (1978, 90); Manville (1980, 220).
- 11 E.g., Hyper. fr. 76; Diod. 18.18.1–3; Long. *Inv.* (Walz 9: 1836, 544.21–545.11); Aps. *Rhet.* 10.9; the *Suda*, Δ 415.
- 12 MacDowell (1976, 90); Wolff (1944, 82): "The case of Phile proves that the daughter of a citizen and an Athenian mistress might be given in lawful marriage"; Harrison (1968, 66): "The case of Phile in Isai. 3. *Pyrrh.* 45ff. proves that the illegitimate daughter of Athenian parents could be given in marriage by ἐγγύη"; Maffi (1989, 188–189).
- 13 Rhodes (1978, 91). For a useful summary of this debate, see Patterson (1990, 41–46).
- 14 Isae. 6.25 and [Dem.] 44.62 (see page 47, n. 42).
- 15 E.g., Men. *Dysc.* 731–732; Dem. 41.3 (see pages 69 and 86, n. 61).
- 16 Cf. Sealey (1984, 125): "the speaker demolishes effectively the supposed testimony to the *engyesis* of Phile's mother to Pyrrhos."
- 17 See esp. D. C. Richter, in *CJ* 67 (1971), 1–8; Just (1989, 105–125); D. Cohen, in *G&R* 2nd ser., 36 (1989), 3–15; P. G. McC. Brown, in *CQ* n.s. 43 (1993), 202.
- 18 Arist., *Pol.* 4.12.9, 1300a.7. So also, e.g., Cohen (1995, 231).
- 19 E.g., Finley (1951, 79–80); Schaps (1979, 99); Leduc (1982, 16); Vêrilhac and Vial (1998, 142–143); Golden (2015, 110–115) (including specific variables that might have affected the size of dowries).
- 20 Isae. 3.49 and 51, with Wyse (1904, 332–333) (with evidence for 1,000 drachmas as being a typical amount for a bastard daughter's or a mistress's portion); Edwards (2007, 59 n. 55); Cobetto Ghiggia (2012, 124 n. 66). This responsibility of the *kyrios*: [Dem.] 43.45; Isae. 3.74 (see chapters 1 and 2).
- 21 See, e.g., Cantarella (1997, 109).
- 22 [Dem.] 59.52, with Bickerman (1975, 18 n. 81): on "a fraudulent *engye*," with reference to Hyper. 4.16 and [Dem.] 59; cf. Walters (1983, 318): "Is. 3.45 contemplates as possible a marriage by betrothal (*engyesis*) of a bastard daughter to an Athenian: as marriage between Athenian and foreigner was forbidden by that time ([Dem.] 59.16, 52), bastards were, *a posteriori*, citizens."
- 23 A word also needs to be said in defense of Aristotle: his *Pol.* 3.3.4–5, 1278a.28–29 and 6.2.9, 1319b.7–11 do not show that "in some democracies bastards are citizens": MacDowell (1976, 90). On both occasions, Aristotle referred to *politai*, demonstrating that in certain circumstances Greek cities could grant bastards *politeia* "by nature," which was quite a widespread situation in ancient Greece, as has been examined in chapter 5. But Greek cities neither turned these bastards into *gnesioi* nor, necessarily, gave them access to deme membership.
- 24 E.g., Hyper. 5.16. This closely pertains to the need for the woman to have a *kyrios* who "gave" the woman (in marriage), which confirmed her status as a *gnesia*; lacking a *kyrios* meant that this was not an *engyetic* marriage, so that children born in this union were not to be counted as legitimate; cf. the position of Electra (page 47, n. 41).
- 25 This interpretations: e.g., Wyse (1904, 328): "The assailant assumes as obvious what the adversaries deny, that Phile's marriage to Xenocles proves that Endius considered her a bastard, and this assumption is reiterated incessantly in its most offensive form, that she was betrothed as a courtesan's child"; cf. Sealey (1984, 125) (see n. 16 above). In fact, the speaker offers two distinct lines of argument, and in the second, i.e. Phile was given to Xenocles as a "child of a mistress," Phile did not actually have to be born by a mistress.
- 26 A similar view: Vernant (1988, 57). This argument is usually passed over: Wohl (2010, 278, 284); Damet (2012, 163).
- 27 E.g., Glazebrook in *Arethusa* 38 (2005), 175.

Appendix 2

Adultery and *moicheia* in ancient Athens

All discussions on adultery in ancient Athens agree on three basic points: (i) adultery was to be prosecuted with the help of public suits (*graphai*); (ii) adultery could be punished on the basis of more than one legal statute; and (iii) these statutes were either of a general nature (and, therefore, dealt with adultery alongside other crimes) or they specifically focused on adultery. The evidence tells us this directly. Beyond that, debates have been waged over a number of topics, including the relationship between (punishment for) adultery and (punishment for) *hybris*, and whether adultery was seen as a source of public violence and disorder and/or whether it also undermined the “private sphere.” A look at the terminology provides a good starting point. As many have already noted, the Greek word *moicheia* does not adequately render the meaning of the modern word “adultery,” which is defined in the *Merriam-Webster Collegiate Dictionary* (11th ed., 2003: 18) as “voluntary sexual intercourse between a married man and someone other than his wife or between a married woman and someone other than her husband.” In fact, *moicheia* was not only concerned with having intercourse with someone else’s wife but also with other women related to him. This follows from the law on *moicheia*, as quoted in Dem. 23.53:

If a man kill another unintentionally in an athletic contest, or overcoming him in a fight on the highway, or unwittingly in battle, or in intercourse with his wife (*epi damarti*), or mother, or sister, or daughter, or concubine kept for procreation of free children (*epi pallake hen ha ep eleutherois paisin ekhe*), he shall not go into exile as a manslayer on that account.

Although a later interpolation, the quote in Dem. 23.53 corresponds to the reference made by Demosthenes himself in the same speech (23.55): “or in intercourse with his wife (*epi damarti*), or mother, or sister, or daughter, or concubine kept for procreation of free children (*epi pallake hen ha ep eleutherois paisin ekhe*).” Because the two texts are identical, and the latter probably served as the basis for the reconstruction of the quoted text of the law, there is no reason to doubt that the Athenians actually had this regulation. By employing essentially the same phrase, Aristotle’s text confirms that this regulation concerned *moicheia*.¹

The episode described in the speech *Against Neaera* confirms Demosthenes's words: Stephanus allegedly arranged to catch Epänetus in an act of *moicheia* with the daughter of Neaera (*lambanei moichon epi te thygatri te Neairas*) and released him only after Epänetus agreed to pay thirty minae and provided sureties. However, Epänetus then filed a suit (*graphe*) against Stephanus before the *thesmothetae*, in accordance with the law concerning unlawful imprisonment on a charge of *moicheia* (*ean tis adikos eirkse hos moichon*). The case concerned an unmarried daughter and had nothing to do with a lawful wife.² This activity falls under a modern definition of "seduction." Other ancient texts, too, indicate that *moicheia* could involve unmarried women.³ *Moicheia* was more comprehensive than adultery.⁴

Establishing the date of the regulation on *moicheia* has also produced different opinions.⁵ Reexamining this problem begins with internal evidence. The word *damar* ("lawful wife") was an archaic concept, while the stress on a *pallake*'s children as "free children" points out that the children of *damar* were not only free but also legitimate.⁶ The text leads to two observations. One is that the law was not designed to protect just the wife or even individual women; it only protected women as members of a household.⁷ The other observation, which follows naturally from the first, is that the regulation on *moicheia*, as quoted by Demosthenes, did not differentiate between the protection of the *damar*, the lawful wife who produced legitimate children, and a concubine, who could only give birth to free children – although, as follows from the same quote, the law did acknowledge that the status of their children was different.⁸ According to another law quoted in one of the speeches from the Demosthenic corpus,

If a father or brother born of the same father or grandfather on the father's side betroths a woman on just terms (*hen an engyese epi dikaióis*) as a wife (*damarta einai*), her children are legitimate (*ek tautes einai paidas gnesious*).⁹

If it was Solon who established the principle of legitimacy, distinguishing between legitimate (*gnesioi*) children and free bastards, or *nothoi* (see chapter 1), which is reflected in the law mentioned by Dem. 23.53 and 55, then the fact that this law defines *moicheia* as sexual violence against not only the *damar* but also against a concubine – that is, regardless of the status of the women, and of their children – dates the origin of the idea of *moicheia* to the time before Solon.¹⁰

Once we return to the modern definition of "adultery," the word that stands out most is not "wife" but "married (woman)." This word shows that the union of the two people is legally defined, which is what makes it possible to talk about adultery. If there is no marriage, there is no adultery. In the absence of marriage, intercourse with someone's girlfriend or mother or sister is an offense, but not adultery. Only when a legal marriage is established does adultery become possible. The definition of marriage is based on the legitimacy of children. If a person lives with two women, and the children of one of them are acknowledged as legitimate, whereas the children of the second are not, then the first woman is this

person's lawful wife. If someone else sleeps with her, this would be adultery in modern terms. If someone else has intercourse with the second woman, this would be an offense, but not adultery, just like if he has intercourse with the mother or sister or daughter of that same person.

It is true that marriage was never legally defined in Athens but was acknowledged to consist of several practical steps.¹¹ Hence, *moicheia* cannot be narrowed down to a breach of marriage: marriage simply did not exist in archaic and classical Athens, at least not in modern legal terms. According to David Cohen, the Greeks developed a narrow understanding of *moicheia* that was close to the modern vision of adultery as pertaining only to a married couple.¹² Some texts indeed referred to *moicheia* as being concerned with the relations between husbands and wives.¹³ However, the Greeks applied the same term, *moicheia*, to both such cases and to affairs involving unmarried women, even though Cohen unsuccessfully tried to dispute the latter evidence. His critics have rightly pointed out that many ancient Greek texts defined *moicheia* as sexual intercourse not only with married women but also with unmarried women and girls. Yet, such critics either acknowledged their inability to reconcile these bits of evidence or suggested interpretations that fail to convince.¹⁴ The cases of *moicheia* that concerned married women negatively affected not only the woman's relationship with her husband, as in modern marriages, but also with his household (*oikos*). The speech *Against Neaera* illustrates this situation with the following references, which offer first a summary of the law and then what the text adduces as a quote from the actual law:

if they commit this sort of crime, they will be expelled from their husband's home (*tes oikias tou andros*) and from the city's sacred area,

when a man catches an adulterer (*ton moichon*), it is not permitted for him to continue to live (literally, "to share the same *oikos*," S.D.) with his wife (*synoikein te gynaiki*). If he does live with her, he is to be an *atimos*. Nor is it permitted for the woman to attend public sacrifices.¹⁵

Just like the woman was protected against *moicheia* as a member of the man's household,¹⁶ her connection with the household was supposed to be broken after *moicheia* took place. This situation pertains to Moses Finley's observation that "it was primarily around the legitimacy of the children that the law of marriage gravitated. This pivotal point, however, was missing in Homeric Greece, where there was no *polis*, no citizenship, no political problem of legitimacy." Who, then, asked Finley, "drew the distinction, which clearly did exist between a wife and a concubine?" In his opinion, this could either have been "the larger kinship group," or the *oikos*. Finley (1981, 243) argued for the latter option because he found no evidence of clan authority outside of blood feuds and because there is a lot of information about the role of the immediate family in the selection of a husband or a wife. His conclusion is supported by the severance of ties between an adulterous wife and the *oikos* of her husband in post-Solonian Athens. It has already been

proposed by MacDowell that women were defended as the property of the head of the *oikos*. However, engytic marriage was a form of loan: it did not make the woman the property of her husband, and wives never broke connection with their natal families, to whom they could always return. Likewise, concubines were not the property of males either: they were either their own masters or agreements made with their families arranged special conditions of their cohabitation.¹⁷

The latter reference ([Dem.] 59.87), included as a quote of the law on *moicheia* (*nomos moicheias*), links a private affair with a diminution of a public status. This situation reflects the importance of the legitimacy of children for the preservation of the kinship community, in line with Solon's reform (see chapter 1). Hence, the suits used for prosecuting *moicheia* were public suits (*graphai*), which not only were filed by a member of the same *oikos* but by any member of the kinship community. The introduction of such suits was one of Solon's measures aimed at strengthening the kinship community by safeguarding its individual households.¹⁸ Cohen was right in the sense that *moicheia* was a public offense, but only from the point of view of protecting the interests of individual households and, on a higher level, the kinship community as a whole: the *astoi* did not care about anybody else.

A major problem in understanding *moicheia* has been that the corresponding evidence has traditionally been approached synchronously, despite the fact that parts of this evidence belong to different historical periods.¹⁹ The earlier, broadly social understanding of *moicheia* covered all free women of the household, since the legitimacy of children was not an issue. As some have already noted, "rape, seduction, and *moicheia* are . . . not so much offenses against women or 'the husband-wife relationship' or even the household itself as they are offenses against men's authority over their households and against their power to control the sexual activities of household members."²⁰ After Solon laid down the principle of the legitimacy of children, the later, post-Solonian definition of *moicheia* focused on intercourse with someone else's lawful wife, who was expected to produce legitimate children as successors to the head of the household. Whether this necessarily meant that the "Solonian legislation was the first one to include a separate statute on adultery" is hard to say.²¹ Although the emphasis shifted, the interests of the *oikos* still occupied the central place. However, the broad meaning of *moicheia* as pertaining to all the women of the *oikos* survived as well. Therefore, evidence about regulations against *moicheia* cannot support the modern theory of "legitimate concubinage" in ancient Athens: the protection of *pallakai* as members of the *oikos* proves neither the lawful status of those women nor the legitimate status of their children.²²

The law against *moicheia* (Dem. 23.53 and 55) reflected the fusion of the old, broadly social and the more recent, narrowly legal approaches. This situation not only explains why the same word *moicheia* happened to have had such a diverse application but also why *moicheia* could be categorized and prosecuted in more than one way. The evidence about *moicheia*, therefore, reflects another situation in which the retrospective use of a modern concept applied to the realities of ancient Greece has created a problem which modern studies have tried to resolve.²³

Notes

- 1 Arist. *Ath. Pol.* 57.3: “one who admits homicide but declares it to have been legal (for instance when he has killed a man taken in *moicheia* [*hoion moichon labon*]), or who in war has killed a fellow Athenian in ignorance, or in an athletic contest, is tried at the Delphinium,” with Drerup (1897, 274); MacDowell (1963, 70, 73); Bertazzoli (2005, 642); Canevaro (2013, 64–70), incl. 65 n. 13.
- 2 [Dem.] 59.65–66. David Cohen refused to take this evidence into consideration; see Cohen (1984, 154–155 n. 15); Cohen (1991, 102, 108–109). Patterson (1998, 260 n. 26) referred to this episode as the “supposed *moicheia* of Epainetos with Neaira’s unmarried daughter,” but the text leaves no doubts that this is how contemporaries understood it. For brief overviews of this debate, see Wolicki (2007, 135) (with n. 16) and Cantarella (2011, 335–336).
- 3 E.g., Aristoph. *Av.* 558–559; Men. *Sam.* 717, and more in Wolicki (2007, 131).
- 4 E.g., Sealey (1984, 111 n. 1); Cantarella (1991, 296); Kapparis (1995b, 108); Schmitz (1997, 51, 124, 130); M. R. Christ, in *AJP* 119 (1998), 522; Karabélias (2002, 143); Wolicki (2007, 131); Foxhall (2013, 41–42); Kaffarnik (2013, 175–176). Cf. Diamond (1950, 85): “In our modern English law . . . intercourse with a woman by consent . . . is divided into adultery, when the woman is married, and seduction, when she is unmarried,” and Phillips (2013, 103–104). The meaning of *moichos* cannot thus be simply reduced to “seducer,” as Harris (2015, 300).
- 5 Draco’s authorship: Erdmann (1934, 287), and n. 10 below. For this law as Solon’s regulation: Ruschenbusch (1966), F 20 = Martina (1968), F 401; Levick (2012, 101). Cf. the proposal of Carey (1995, 413) that the “code of Drakon acknowledged no distinction between adultery and rape, and that this distinction begins with the code of Solon.”
- 6 E.g., Harrison (1968, 61); Maffi (1989, 197); Kapparis (1995b, 105); Bringmann, in Ruschenbusch (2010, 49).
- 7 For *moicheia* as affecting not so much individuals and individual relations, but the household as a whole, see, e.g., Paoli (1976, 268–270), followed by Cantarella (1964, 151 n. 115); and also Carey (1995, 416); Ogden (1997, 25–26); cf. Patterson (1998, 118): on the law on *moicheia* as a response to the “sexual violation of a woman within the household.” See Dover (1974, 209): on adultery as an affront against a “fellow-citizen.”
- 8 Patterson’s (1998, 117) translation *epi pallake hen ha ep eleutherois paisin ekhe* as “with the concubine he keeps for [procreation of] legitimate children,” evidently following J. H. Vince’s erroneous translation in *LCL*, makes it impossible to perceive the real meaning of this regulation.
- 9 [Dem.] 46.18 = Ruschenbusch (1966), F 48b = Martina (1968), F 440 (see page 44, n. 14).
- 10 For ascribing this law to Draco, see Paus. 9.36.8 and Athenae. 13, 569d, with Bertazzoli (2005, 642), who referred to Draco as the “promoter” of the law against the crime of *moicheia*. See also n. 5 above.
- 11 See page 46, nn. 26–27.
- 12 E.g., Cohen (1984, 153–155) (with sources). While giving due credit to Cohen’s perceptive observations and the importance of questions he raised, subsequent studies have also critiqued his stance as going too far and offering a narrow perception of *moicheia*: see, e.g., Cantarella (1991, 289–290, 296); Schmitz (1997, 124–132) (with additional evidence), and Schmitz (2007, 102–103); Omitowaju (2002, 27–28, 76–78); Wolicki (2007, 133–135).
- 13 Lys. 13.68, with Omitowaju (2002, 74, 91): on such cases as a “particularly important category of *moicheia*,” with 84: on 21 identifiable cases of what we would call adultery out of 113 references to *moicheia* in Homer, Aristotle, Lysias, Demosthenes, Plato, Andocides, Aristophanes, Aeschines, Isocrates, Xenophon, Hyperides, and Isaeus.

- 14 First: Cantarella (1991, 295–296). Second: Wolicki (2007, 139–140): while the term *moicheia* could have indeed denoted any act of vulgarity, as Wolicki asserted, this still does not explain why it could be applied to both married and unmarried women.
- 15 [Dem.] 59.86 and 87, respectively. On [Dem.] 59.104, see Canevaro (2013, 190–196), incl. 196: “the document is a later insertion and, although it does not present any feature absolutely unacceptable in an authentic Athenian statute, is slightly inconsistent with Apollodorus’ summary of the law.” Canevaro’s examination centered on the limits imposed on the public activities of such a woman, and on a regulation allowing the adulterer to be killed, not on the relationship between the woman and her husband, which is the focus of the current discussion.
- 16 For this view, see also, e.g., Paoli (1976, 253–254), who, however, insisted (257–258, 264–265) that *moicheia* only took place if the woman was a citizen (this is how Paoli translated *aste*) and a free person (so also Glazebrook and Olson 2014, 71–72); Karabélías (2005, 61, 275–276); Schmitz (1997, 127–128).
- 17 MacDowell (1963, 77). See page 46, nn. 30–32 and page 49, n. 66, respectively.
- 18 Cf. a close conclusion by Schmitz (2004, 239–240) that in such cases, the use of *graphai* reflected the interests of the community as a whole.
- 19 E.g., Cantarella (1991, 289).
- 20 L. Foxhall, in *Symposion 1990* (1991), 299; cf. on *moicheia*: Foxhall (2013, 42): “having sex illegitimately with a woman under someone’s control”; Karabélías (2002, 143): an act committed “avec une femme d’un *oikos*”; Harris (2006, 315); cf. Cohen (2015, 120) (on *moichos* as “a violator of another male’s female relative”); see also n. 7 above. It is for this reason that a woman’s consent to sex did not make a difference: Omitowoju (2016, 120).
- 21 This view: Kapparis (1995b, 120).
- 22 This theory: Lipsius (1905–15, 430); Sealey (1984, 112–113); Bertazzoli (2005, 685); cf. Foxhall (2013, 42): the “biggest threat of a *moichos* is that he corrupts (or at least casts doubt upon) the legitimacy of children.” This relates to a debate on whether engytic marriage was necessary for producing legitimate children: page 47, n. 39 and page 48, n. 55.
- 23 For an analogous perception of *moicheia* in Gortyn, see Cantarella (2005a, 76). Cf. similar situations when meanings of *atimia* (Dmitriev 2015a, 45–50) and *politeia* (chapter 4) evolved over time and were applied in retrospect.

Appendix 3

The “Plataean *politeia*”

The most famous – at least, by modern standards – grant of *politeia* to a group of people in Greek history is, undoubtedly, the gift of Athenian *politeia* to the Plataeans. One of the two reasons why this grant has attracted so much attention is that the Plataeans were said to have received Athenian *politeia* on three occasions. The other reason is the need to explain why, despite being *politai* (and, therefore, citizens, according to the standard modern interpretation of *politeia*), the Plataeans appeared to have limited rights in Athens.

The Plataeans are said to have received Athenian *politeia* in 519 (according to Thucydides 3.55.3 and 3.63.2), 427 (according to [Dem.] 59.104–106), and in the 370s, when the speaker of Isocrates’s *Plataicus* (14.52–53) urged the Athenians to make the Plataeans into *politai* of Athens, by saying that

it would be most shocking of all if you, having earlier given us a share in your fatherland (*ei proteron men hemin metedote tes patridos tes hymeteras*), now decide not to restore what is ours to us.

The traditional interpretation of *politeia* as citizenship has required an explanation of how the people of the same city received the Athenian *politeia* three times. Some have rejected the historicity of the grant of Athenian *politeia* to the Plataeans in the late sixth century,¹ while others have tried to reinterpret it. Arnold W. Gomme’s old and venerable commentary on Thucydides asserted that “the right of *isopoliteia* did not mean the merging of two states in one, but the grant of honorary citizenship to all citizens of the favoured state and of all (or most) of the rights of citizenship to such of those citizens as settled in the granting state,” and “it is this possibility of double citizenship which makes me doubt the argument that Thucydides makes a mistake here about the date of the grant of Athenian citizenship to the Plataeans . . . For so long as Plataea existed as a separate state, their alliance with Athens was more important than their citizenship.”² Similar views have been expressed by others: Moshe Amit, who argued for the award of “an honorary citizenship” to the Plataeans in 509 (i.e., not in 519) and for “two phases in the award of the Athenian citizenship” to them (the second phase occurring in 427); Luisa Prandi, who asserted that Thucydides did not speak of “full citizenship” in 509 (thus agreeing to the dating suggested by Amit); Adalberto Giovannini, who

accepted the information about the Athenian grant to the Plataeans "at the end of the 6th or the beginning of the 5th century," because he interpreted (iso-) *politeia* as a "potential" grant; and Peter J. Rhodes, who believed that the "citizens of Plataea may have been given a form of actual or potential Athenian citizenship when they became allies of Athens in 519, and after the destruction of their city in 427 they were given Athenian citizenship with certain limitations."³

However, neither rejecting the historicity of the grant of Athenian *politeia* to the Plataeans in the late sixth century nor reinterpreting its nature as a grant of "potential" or "honorary citizenship" eliminates the issue of the Plataeans having been awarded Athenian *politeia* on more than one occasion: we also have evidence of grants in 427 and the 370s. Simon Hornblower's more recent commentary also regarded Thucydides's statement as "an important but historically problematic claim," since "the fourth-century orators say firmly that it was only as a result of the treaty of 427 that the Plataians were given Athenian citizenship." While Hornblower acknowledged that a "formal Athenian grant of isopolity was made to Plataia at an earlier date," he offered the same solution as Giovannini by presenting isopolity as meaning "an arrangement by which a citizenship grant was merely potential unless and until it was 'cashed' by the citizens of the recipient state arriving and settling in the granting state." He also believed that isopolity is "too formal a term for these early dates," such as 519 or 427.⁴

While the latter is certainly true, there are at least two reasons why we have no valid grounds for doubting, discarding, or offering a special interpretation of Thucydides's information about what happened in 519. The first is that Thucydides does not use the word "isopolity": he speaks only of *politeia* and an alliance. The second reason is that grants of *politeia* were often renewed, or were confirmed for the relatives of those who had received them in the past. Greek cities often extended the grant of *politeia* (and other rights) to children and descendants (*ekgonoi*) of the recipient, as Athens did with, among others, the grant of *politeia* to Euagoras of Cyprus; the metics who helped to overthrow the tyranny of the Thirty; Dionysius I of Sicily; Orontes, the satrap of Mysia; and Arybbas, the king of the Molossians.⁵ We see a similar situation elsewhere in the Greek world, including the famous grants of *politeia* to two women together with their descendants by the Epirotes, grants of *politeia* to women and their family (*kai geneai*) by Dyme in Achaia, and grants to Mausolus and Antigonos (still a private person), who received *politeia* – from Erythrae and Priene, respectively – for themselves and their descendants.⁶ The fact that some decrees explicitly offered *politeia* to the honorands and their descendants implies that *politeia* did not always pass from parents to children. The inscriptional evidence leaves no doubts that there were times when *politeia* was "renewed," or confirmed, for the relatives of the main recipient at a later date. For example, the Athenians gave their *politeia* to Spartocus and Paerisades in the mid-fourth century B.C., although their father Leucon, the prince of Bosporus, had already received it from Athens.⁷ In a similar fashion, Athens gave *politeia* to Arybbas, the king of the Molossians, whose father and grandfather had this right, as well as to Phormion and Carphynas, although (or, precisely, because) their grandfather had already received this grant from Athens.⁸

At a later date, Aischron, son of Proxenus, from Delphi, obtained Athenian *politeia* “like his ancestors.”⁹

The same was true for the grants of *politeia en masse* – the Athenians are known to have confirmed the grant of *politeia* to Samos, whereas the people of Priene, while ordaining the election of *theoroi* to go to the Panathenaia in Athens, confirmed their previous grant of *politeia* to the Athenians.¹⁰ Later evidence for confirmations and renewals of earlier grants retrospectively applied the word *politeia* to earlier grants, which evidently used the so-called ethnics for that purpose. The description of the grant of Athenian *politeia* to the Plataeans in 427 uses the ethnics when quoting the original decree, and the word *politeia* when the orator offered his own interpretation of the event, which confirms the genuineness of the quoted decree.¹¹ It is possible, therefore, to trust the words of the orator ([Dem.] 59.105) that

the names of those who passed the scrutiny were to be inscribed on a stone pillar to be erected on the Acropolis near the temple of the goddess, so that the gift would be preserved for their descendants and that each one of these could prove his status as a kinsman (*syngenes*).

Once the relationship was established and confirmed, the descendants of *politai* “by decree” evidently received *politeia* for themselves as well. A similar habit of publicly displaying the names of *politai* has also been documented in many other Greek cities.¹² Public displays of lists of new *politai* served two purposes at the same time: they both honored the recipients and entitled their descendants to personally obtain this honor in the future.¹³ The same situation was inferred in Isocrates’s reference (14.52) to the confirmation of the *politeia* of the Plataeans in the late 370s, mentioned above. Regardless of whether the *Plataicus* was a fictitious discourse and a piece of propaganda or a genuine work that was written and pronounced for a real occasion, it surely reflected what was then common knowledge in Athens: the descendants of the recipients of Athenian *politeia* were also entitled to this privilege. It is the unwillingness of (some of) the Athenians to confirm the grant of *politeia* to the descendants of the Plataeans who had received it in the past that is the focus of the *Plataicus*. The fact that the word *politeia* only appeared later, therefore, does not deny either the existence of such grants in earlier times or the established practice of subsequent confirmations, or renewals, of such grants by Athens and other Greek cities. Athenian grants of *politeia* to the Plataeans fall within this general pattern of subsequent grants or confirmations of *politeia*, even though an ethnic was used in 519 and, probably, 427, rather than the word *politeia*.

The other reason why the grant of Athenian *politeia* to the Plataeans has received so much attention is that the political rights of the Plataeans in Athens were restricted, as follows from several passages in the speech *Against Neaera* –

for in the case of all those whom the Athenian people may make *politai*, the law explicitly forbids those made *politai* by an act of the Athenian Assembly

from holding any of the nine archonships or participating in any priesthood. The *demos* does, however, grant a share in all these privileges to the second generation, adding the qualification “if they are born to an *aste* who was legally married” (*ek gynaikos astes kai engyetes kata ton nomon*);

[the decree (*psephisma*) regarding the Plataeans]: the Plataeans are to be Athenians (*einai Athenaios*) from this day forward, with the rights enjoyed by other Athenians, and they are to have a share of all that the Athenians share, sacred and secular, except for a priesthood or rite belonging to a *genos* (*plen ei tis hierosyne e telete estin ek genous*), and service as one of the nine Archons, though their descendants may do so . . . and the Plataeans shall be distributed among the demes and tribes (*kataneimai de tous Plataieas eis tous demous kai tas phylas*); and

[in the opinion of the speaker, the author of the decree regarding the Plataeans] prescribed the law for the Plataeans, in the interests of both the city and its gods, that effective immediately no Plataean could obtain any of the nine archonships nor any priesthood, though their descendants may, if they were born from an *aste* who was legally married (*ex astos gynaikos kai engyetes kata ton nomon*).¹⁴

The fact that *politai* either did or did not have access to political rights is not surprising at all. After the reform of Cleisthenes, adult male members of the Athenian kinship community, or the *astoi*, had access to deme membership and political offices once they passed the scrutiny verifying they were indeed legitimate children (*gnesioi*). However, as we saw in chapter 3, female *astai* and male underage *gnesioi* children had no political rights, even though they also were *politai* “by nature.” Aristotle referred to this situation in his famous definition of the “perfect *polites*” (*Pol.* 3.1.4, 1275a.14–27) as someone who had both *politeia* and the right to serve as a judge and to hold political offices, whereas old men and underage children, although they were also counted as *politai*, had no such rights. Female *astai* occupied a similar position: although they also enjoyed *politeia*, they had no political rights. The distinction between the status of a *polites* and the possession of political rights was first made clear by Solon, who gave *politeia* to all *astoi* but awarded political rights to members of only two (or three) of the census classes. Such evidence also shows that ancient Greeks understood political rights differently from us. For example, the *atimoi* – or the people whose civic status had been constrained for some reason, such as an unpaid debt to the state – could still attend the assembly and vote, but they were prohibited from making public proposals and occupying positions of judges and officials (see chapter 4). Another conclusion that follows from this evidence, and [Dem.] 59.104 in particular, is that *politai* “by decree,” who had no political rights, were organized by demes. This happened because such *politai* had the right of *enktesis*, while lists of the owners of immovable property were kept in demes (see page 250, n. 111). Grants of *politeia* were not yet necessarily accompanied by deme registration in the late fifth century.

Some have already pointed to the discrepancy between the provisions contained in the alleged text of the decree (*psephisma*), which was inserted in the text of the speech at some later date, and the content of that decree, as described by the speaker himself.¹⁵ However, the speaker used the ethnic (“let the Plataeans be Athenians”) when he quoted the decree, and he used the word *politeia* when he described that grant in his own words. This approach reflected the historical development of Athenian *politeia*: the use of the ethnic supports the view that the Plataeans obtained Athenian *politeia* in the late sixth century. Although the words of Apollodorus ([Dem.] 59.106) show that the Plataean *politai* were excluded from all priesthoods and archonships, they had the right to arrange engytic marriages with Athenian *astai*, thus being able to produce legitimate (*gnesioi*) children, who, for this reason, would have access to priesthoods and archonships. According to [Dem.] 59.92, this rule applied to all *politai* “by decree,” i.e., not only the Plataeans; we know that the slaves who fought for Athens in the battle of Arginusae received the same status as the Plataeans.¹⁶

We see similar situations elsewhere. For example, after the Syracusans overthrew Thrasybulus, they deprived *politai* “by decree” of the right to occupy political offices (*archai*), on suspicion that they would try to stage a revolution. Therefore, only the “original *politai*” (*tois archaiois politais*) could have access to offices. Providing us with this information, Diodorus does not say that *politai* “by decree” were deprived of *politeia*. According to him, they remained *politai* but lacked political rights (Diod. 11.72.2–73.1). The same conclusion follows from the alleged seventh-century decree adopted by the people of Thera, stipulating that any Theran wishing to move to Cyrene was entitled to “share in *politeia* and office” (*kai politeias kai timam pedekhen*) and to receive a plot of unoccupied land.¹⁷ The right to *politeia* was, thus, supplemented by the possession of political rights, as Aristotle’s definition of a “perfect *polites*” made quite clear.¹⁸ The problem of the restricted political status of Plataean *politai* in Athens was created by identifying *politeia* with citizenship. Once it is acknowledged that *politeia* was a specific social and legal status in the *polis*, and that only some of the *politai* were expected to have political rights, this problem disappears.

Notes

- 1 E.g., Busolt (1926, 945); Osborne (1981 (2), 11); Kapparis (1995a, 359).
- 2 Gomme (1945–81, 2: 340). See also Gauthier (1986, 122); Carey (1992, 139).
- 3 Amit (1973, 75–78, 96) (and 71–73, 78 on the date in 509); Prandi (1982, 58, 64) (but see Prandi (1988, 111–112), where she opted for 519, although she rejected the view that the Plataeans received honorary citizenship at that time); Giovannini (2007, 309); Rhodes (2012c, 749). Doubts on whether the Athenians granted their *politeia* to the Plataeans in the sixth century: D. M. MacDowell, in *CR* n.s. 35 (1985), 319; Queyrel (2003, 181); Kapparis (2005, 74). Konecny and Marchese (2013, 26, 30–31) accepted the date of 509–508 as the time of the conflict between Plataea and Thebes but thought the Plataeans received “Athenian citizenship” only in connection with the destruction of their city in 427.
- 4 Hornblower (1991, 449); so also Baslez (1984, 104) (with the date in “421”) and Meier (1996, 47) (“429”).

- 5 *IG* I³ 113: Euagoras of Cyprus in 411–410 B.C.; *IG* II² 10.A (= *GHI* 100).5–7; *IG* II² 103.30–32: Dionysius I of Syracuse and his sons in 368 B.C.; *IG* II² 207 (= *IG* II³ 295).6–7: Orontes [and “his descendants”] in 349–348 B.C.; *IG* II² 226 (= *IG* II³ 411 = *Syll.*³ 228 = *GHI* 173).1–5: Arybbas in 343–342 B.C. Similar practice elsewhere: *Syll.*³ 162.2–3: the people of Troizen honored Echilaus, son of Philonides, from Plataea (369 B.C.?).
- 6 *SEG* 15, 384.1–6 and 20–24 (Dodona, 370–368 B.C.), with J. A. O. Larsen, in *CP* 59 (1964), 106–107 and 62 (1967), 255–256; D. Harvey, in *CP* 64 (1969), 226–229; and Vatin (1984, 65), with Meyer (2013, 49 n. 94). Dyme: *Syll.*³ 531 = *SEG* 40, 394 = Mackil (2013, 456), ll.17–20 (third cent. B.C.). Mausolus: *I.Erythrai* 8 (= *Syll.*³ 168 = *GHI* 155).5–7 (357–355 B.C.). Antigonus: *I.Priene* 2 (= *Syll.*³ 278 = *GHI* 186).7–9 (ca. 332–328 B.C.?).
- 7 *IG* II² 212 (= *IG* II³ 298 = Michel 98).20–24 (347–346 B.C.) with Dem. 20.30, who accused Leptines of having deprived Leucon and Leucon’s children of the *politeia* they had received from Athens (ca. 355–354 B.C.).
- 8 *IG* II² 226 (= *IG* II³ 411 = *Syll.*³ 228 = *GHI* 173).1–5 (ca. 342 B.C.) with J. Heskel, in *GRBS* 29 (1988), 185–196 and *IG* II² 237 (= *IG* II³ 316 = *Syll.*³ 259 = *GHI* 178).15–21 (338–337 B.C.).
- 9 *IG* II² 845, with Osborne (1981) (2), 158–160 and 1983 (3–4), 129.
- 10 *IG* I³ 127 (= *Syll.*³ 116 = *GHI* 96 = *ML* 94 = *IG* II² 1).11–17 and 33–34 (405–404 B.C.); *I.Priene* 5.6–8 (ca. 331–328 B.C.?).
- 11 [Dem.] 59.104–106 (see n. 14 below). For the use of ethnics in grants of *politeia*, see chapter 3.
- 12 Cf. grants of *politeia* inscribed on pillars in or near the most important temple in the city, such as the temple of Artemis in Ephesus: e.g., *I.Ephesos* 1449.7–8, 1454.4–7; *SEG* 39, 1153.14–15, 1155.7, 1156.8–10, or Hera in Samos: e.g. *IG* XII.6, 44.17, 45.10–11, 148.17–18, or Apollo in Miletus: e.g., *SEG* 38, 1193.13–15 (late fourth–early third cent. B.C.).
- 13 This topic was not raised by Lambert (2011b, 193–213), who discussed honorific decrees as one group.
- 14 [Dem.] 59.92, 104, and 106, respectively. Mirko Canevaro (2013, 196–208) has rejected the authenticity of [Dem.] 59.104. He expressed no such skepticism about [Dem.] 59.92 and 106, which allows us to still safely use this evidence in our discussion. A distinction between affiliation with a deme and membership in a deme: chapter 6.
- 15 E.g., Canevaro (2010, 337–369); cf. Kapparis (1995a, 374–375). See preceding note.
- 16 Xen. *Hellen.* 1.6.24; *FGrH* 323a (Hellan.), F 25; and Aristoph. *Ran.* 693–694 (see page 204, n. 5). This is what Isocrates (14.51) probably referred to as the right of the Plataeans to “intermarriage” (*epigamia*) with Athenian *politai*; with Prandi (1982, 76–77); Bearzot (1997a, 44). If this interpretation is correct, then Isocrates made his reference in very broad terms.
- 17 *SEG* 9, 3 (= *JHS* 80, 1960, 94–95 = *ML* 5).31–33 (see page 205, n. 23).
- 18 Arist. *Pol.* 3.1.4, 1275a.14–27; for a discussion of this text, see chapter 4.

Appendix 4

Politeia and symbola

Narrowing down his definition of the “perfect *polites*,” Aristotle (*Pol.* 3.1.4, 1275a.6–8, 14–27; see page 159, n. 48) noted that this *polites* could not be categorized solely by a reference to his residence (because other social groups, such as metics and slaves, also shared the same domicile: *Pol.* 3.1.4, 1275a.7–9), nor only by his right to participate in the common system of justice (*hoi ton dikaion metekhontes*), which conferred the right to defend an action and to bring one in the law courts (because this right also belonged to the parties under common legal agreements; *Pol.* 3.1.3, 1275a.9–11: *kai tois apo symbolon koinonousin*). With these statements, Aristotle both defined *politai* as legally equal, thus presenting them all as forming one legal community (for this topic, see chapter 3), and showed that not only *politai* but some other people had legal rights and legal protection in Athens and other Greek cities by virtue of common legal conventions, or *symbola*. These conventions were established between residents of the city and/or between residents and aliens and/or between cities and/or between cities and other entities.¹ Ancient Greek cities indeed offered grants of *politeia*, which affected the recipients’ legal status (see chapter 3) and established legal conventions that concerned the legal and economic rights of the involved parties.² How and why did the two practices coexist? And what was the interrelationship between the people who had *politeia* “by decree” and the people who had *symbola*? Much of the corresponding evidence concerns *politeia* – in the forms of “equal *politeia*” (or *isopoliteia*) and “joint *politeia*” (or *sympoliteia*) – which only emerged after the sixth century. Therefore, the following discussion will rely on sources from both the classical and Hellenistic periods.³

The grants of *politeia* (in particular, in the form of treaties of “equal *politeia*,” or *isopoliteia*) that Greek cities extended to each other were compatible with the establishment, or preservation, of a *symbola* between cities, as in the case of the treaty of isopolity between Messene and Phigalea, or between residents of any of the two cities, as in the treaty of isopolity between Hierapytna and Priansus. Relevant parts of the corresponding treaties look as follows:

It was decreed by [the city of] the Messenians: let the Messenians and Phigaleans have isopolity and *epigamia* with each other (*isopoliteian kai epigamian poti allalos*). Let them also make a *symbola* whichever each of the two cities decides.⁴

As for injustices (*adikematon*) that had taken place in each of the two cities (*par hekaterois*) in the time before the establishment of the common tribunal (*to koinodikion*), let the *kosmoi* who hold office together with Enipantos and Neos make a trial. . . . As for those injustices that emerged since then, they should be subjected to arbitration according to the regulation (*diagramma*). With respect to the court (*peri de to dikasterio*), the *kosmoi* that held office yearly in each of the two cities, will appoint an umpire city that will be agreed upon by both cities, in which a court of appeal (*to epikriterion*) will be held, and will establish guarantors . . . and will achieve a resolution of this matter under the same *kosmoi* in accordance with the commonly decided upon *symbolon* (*kata to dokhthen koinai symbolon*).⁵

The co-existence of the two practices has been explained either by the potential character of isopolity or by denying its legal importance.⁶ Philippe Gauthier's very elaborate interpretation of the treaty between Messene and Phigalea was that the isopolity pertained to the Aetolian League. Therefore, by establishing isopolity with Messene, Phigalea – which was connected already to the Aetolian League by isopolity – effectively served as an intermediary in joining Messene with that League, whereas the *symbole* was a legal convention arranged just between the two cities. Some, however, including Emil Szanto – whose book Gauthier did not mention here or in his overview of the relevant bibliography on pp. 12–13 – believed that both communities belonged to the Aetolian League at the time when Messene and Phigalea concluded the isopolity treaty. Other questions remain. How should we explain treaties of isopolity that clearly did not concern membership in any League? And how do we explain this and other cases of exchanges of *politeia* between cities that were members of the same League, such as, for example, the treaty of isopolity between Xanthus and Myra, both of which belonged to the Lycian League, or the treaty of sympolity between Melitea and Perea, which were both members of the Aetolian League?⁷

Like any *politeia*, isopolity provided its recipients with the right to use the same laws as local *politai* and be treated by the same (legal) officials, according to the evidence examined in chapter 3. What, then, was the purpose of *symbola*? A speech from the Demosthenic corpus ([Dem.] 7.11–13), known as *On Halonnensus*, offers the following information:

[N]either Amyntas, the father of Philip, nor the other kings ever made legal conventions with our city (*oudepopote symbola epoiesanto pros ten polin ten hemeteran*), though dealings (*hai epimeiksiai*) between our two nations were more frequent then than now. For Macedonia was under our control and paid us tribute, and we made greater use of their markets and they of ours than is the case now, and there were no commercial suits (*emporikai dikai*) every month as there are now, strict ones, making a legal convention (*symbolon*) between such distant parties unnecessary. However, there was no such compact (*symbola*), and it would not have paid to make one that would entail a

voyage from Macedonia to Athens or from Athens to Macedonia in order to obtain satisfaction. Instead, we sought redress in Macedonia under their laws and they at Athens under ours (*hemeis te tois ekei nomimois ekeinoi te tois par' hemin tas dikas elambanon*).

When the orator says that the Athenians had to use Macedonian laws in Macedonia, while the Macedonians had to abide by Athenian laws in Athens, he does not just mean the use of local laws; in normal circumstances, aliens would neither have been able to use the same laws as local *politai* nor have been able to be treated by the same officials. Establishing a legal convention solved this problem.

Aristotle did not include those who were only “participating in a common system of justice, conferring the right to defend an action and to bring one in the law courts,” among the *politai*. This was because, as he said, “this right belongs also to parties that have common legal conventions” (*touto gar hyparkhei kai tois apo symbolon koinonousin*).⁸ The *symbola* created a common legal system used by the two parties for settling their disputes. For Johannes Herrmann – who applied the designation *symbolon* to “any agreement, any obligation in the sphere of private law” – the agreement itself contained all of the necessary conditions and requirements. Although he focused on international relations, Russell Meiggs occupied a similar stance. According to him, *symbola* were “inter-state agreements which laid down the procedure to be followed when disputes arose between members of two states.”⁹ However, since *symbola* were legal conventions between two parties, they were not only established between cities¹⁰ but also between residents of the same city, i.e., those who used the same laws. In addition to the above-mentioned treaty between Hierapytna and Priansus, this situation was also reflected in

the grant of isopolity by Athens to the Samians: Let each of them use their own laws, remaining autonomous, and perform everything else according to oaths and agreements as befits the Athenians and the Samians. And as for whatever charges they might have against each other, let them bring lawsuits and defend themselves according to existing *symbola* (*pros allelous didonai kai dekhesthai tas dikas kata tas symbolas osas*),¹¹

the treaty of sympolity between Helisson and Mantinea: Let the Helissonians and Mantineans settle legal charges to each other according to the laws of the Mantineans [. . .] whatever *symbola* the Helissonians happened to have with respect to each other before they joined Mantinea, let them remain valid and let them use the same laws they had when they started coming to Mantinea,¹²

the letter of Antigonos to Teos: As to suits based on injury or breach of *symbola* [now standing] in either city (*ta de enkleмата kai ta symbolaia ta hyparkhonta hekaterois autous pros hautous*), (we thought it right) that the litigants be reconciled or the cases adjudged separately [according to the] laws [of that city] and according to our decree (*[kata tous hekateron n]omous*

kai to par' hemon diagramma), within two years from the time when [the decree] is published. . . .

This situation is also evident in the honorific decree for the judge Callicrates from Erythrae, who settled *symbola* among private individuals (*ta symbolaia tois idio-tais*).¹³ Many other texts also point to this situation, including the treaty between the people of Iasus and the soldiers stationed in that city or the Samian grant of *politeia* to judges from Myndus, who had accepted the invitation to come and settle “contracts in suspense” (*ta meteora symbolaia*), which had caused a division among the *politai* of Samos.¹⁴ The *symbola*, therefore, did not just guarantee legal protection to aliens who were present in the city.¹⁵ Local residents could establish *symbola* with each other or with foreigners as well, like the local residents did with the soldiers stationed in Iasus, who made *symbola* according to the laws of Iasus.¹⁶ The *symbola* between the cities of Oeanthea and Chaleon distinguished legal cases of aliens (*xenoi*), administered by *xenodikai*, from legal cases of local *astoi*, which had to be brought to the attention of the *damiourgos* and judged “according to legal conventions” (*dikazetai katas symbolas*).¹⁷

Local *politai*, therefore, established *symbola* with aliens as personal agreements. One such example was the treaty stipulating that any legal redress according to the *symbolon* between the residents of Phaselis and Athens that took place in Athens was to be administered by the Polemarch. As we have seen above, the Polemarch supervised the legal cases of non-*politai*, which further illustrates the difference between having the *politeia* of the city and having a *symbolon* with the city or with this city’s resident(s).¹⁸ Timoleon’s grant in the early 330s of the *politeia* of Syracuse to Greeks from the rest of the Greek world, mentioned earlier, offers another illustration of the difference between the functioning of *politeia* and of the *symbola*. At the same time as he was offering the *politeia* of Syracuse to immigrants from elsewhere (see chapter 5), Timoleon was also revising the existing laws of Syracuse. According to Diodorus (16.82.4–5, 6–7), “those concerning private legal conventions (*ton idiotikon symbolaion*) or inheritances (*kleronomion*) he allowed to remain unaltered, but he amended those concerned with public affairs (*tous de peri ton demosion nenomothetemenous*) in whatever way seemed advantageous to his own concept.” The latter probably referred to his grants of *politeia* to thousands of people, which took the form of isopolity. Hence, while granting the *politeia* of Syracuse to outsiders, Timoleon also validated the existing *symbola* of the locals, similar to the above-mentioned grants of isopolity by Athens to the Samians and the treaty of sympolity between Helisson and Mantinea. Isocrates evidently had a similar concern in mind, when he advised Nicocles to see to it that the city was safe for visitors and that contracts remained legally binding (2.2: *kai pros ta symbolaia nomimon*).

Although both *politeia* and *symbola* concerned the legal status and legal capabilities of the parties involved, they existed on different levels and served different purposes. New *politai* had the same legal and social standing as members of the city’s kinship community (the *gnesioi*), and the grant of *politeia* implied that any legal dispute would be conducted according to the laws of that city and according

to the decision of the city's officials. However, *symbola* were bilateral legal conventions concluded between cities (or between cities and other types of social entities) or, on a personal level, between residents of the same city or between residents and aliens, so that any potential legal cases (*dikai apo symbolon*) were judged according to the laws of one of the parties.¹⁹ Another difference, therefore, was that *politeia* was bestowed by a decree of the city, whereas *symbola* resulted from an agreement by both contracting parties.²⁰ In addition, the people who were protected by legal conventions, or *symbola*, did not have the privilege of using the same laws and officials as *politai*, although their legal status was still better than that of visiting aliens. Like metics, they were under the supervision of the Polemarch.²¹ Finally, the significance of *symbola* was limited to legal obligations and guarantees,²² whereas the importance of *politeia* went beyond that range. This explains why *politeia* and *symbola* were not mutually exclusive: Greek cities established *politeiai* and *symbola* between themselves, whereas local *politai* arranged *symbola* either with other residents of the same city or with aliens. It was even possible to establish *isopoliteia* together with *symbola* in one and the same document, as, for example, in the above-mentioned treaty between Messene and Phigalea.²³

Notes

- 1 I follow Philippe Gauthier (1972, 91–92, 100, 201–205), who, while pointing to certain peculiarities in the course of the historical development of *symbola* and *symbolai*, held the meanings of these terms to have been identical.
- 2 E.g., Harp. Σ 54: τὰς συνθήκας ἃς ἂν ἀλλήλαις αἱ πόλεις θέμεναι τάττωσι τοῖς πολίταις ὥστε δίδοναι καὶ λαμβάνειν τὰ δίκαια. See, for example, Glotz (1928, 312–313); Klose (1972, 143); Ziegler (1975, 25–35); Gauthier (1971, 53) (“a judicial convention”) with 1972, 92; and Ph. Gauthier, in *Revue historique de droit français et étranger* 60 (1982), 553 (“bilateral judicial conventions”); Bravo (1980, 910) (“inter-state treaties”).
- 3 What appears to be the earliest surviving mention of the *symbola* in a literary text (Hdt. 6.86; Gauthier 1972, 67–68, 85) referred to such material objects as tokens, which made it possible to recover a deposit. Gauthier's chronologically arranged catalogue of sources about Athenian *symbolai* and *symbola* begins with the text dated to ca. 460 B.C.: Gauthier (1972, 157–173).
- 4 *IG* V.2, 419 (= *Syll.*³ 472 = *StV* 3, no. 495).9–13 (ca. 240 B.C.?), with Szanto (1892, 77–78).
- 5 *I. Cret.* III (iii), 4.58–71 (early second cent. B.C.) with Gauthier (1972, 316–324); Chaniotis (1996, 255–264); Giovannini (2007, 338–341), including an overview of opinions interpreting *symbola* as private suits between residents of each of the two cities (“les litiges dont il est question seraient des différends privés entre ressortissants des deux cités”: B. Haussoullier, M. Guarducci, A. Chaniotis) or between the two cities (Ph. Gauthier). Giovannini joined the former group, with reference to the phrase ὑπὲρ δὲ τῶν προγεγονότων παρ’ ἐκατέρους ἀδικημάτων (II.58–59) as meaning “in each of the two cities.”
- 6 E.g., Szanto (1892, 77–78, 87); Giovannini (2007, 310), respectively.
- 7 Gauthier (1972, 366–368). Szanto (1892, 76). Xanthus and Myra: *SEG* 44, 1218 (150–100 B.C.). Melitea and Perea: *IG* IX.2, 188 = *Syll.*³ 546B (late third cent. B.C.) with Feldmann (1885, 106).
- 8 Arist. *Pol.* 3.1.3, 1275a.8–11; he also (3.5.11, 1280a.38–40) referred to such treaties elsewhere. See also Harp. Σ 54 (see n. 2 above); the *Suda*, Σ 1373; *GHI* 34.6–7 (treaty

- between Oeanthea and Chaleum), 14–17 (the law of Oeanthea?, ca. 450 B.C.); *IG* I³ 10 (Athens and Phaselis, ca. 469–450 B.C.), 66.15–16 (Athens and Mytilene, 427–426 B.C.), 118.22–25 (Athens and Selymbria, 408 B.C.); *IG* II² 207a (= *IG* II³ 295).13: τοὺς μὲν Ἀθηναίους δίκας διδόναι ἐν τοῖς συμβόλ[οις κτλ.] and 207b (= *IG* II³ 295).6 (honorific decree for Orontes by Athens, 349–348 B.C.); *Milet* I 3, 136 (= *Syll.*³ 286 = *GHI* 195 = *StV* 3, no. 408).14–17 (ca. 325–311 B.C.).
- 9 Meiggs (1972, 229); Herrmann (1990, 266). Cf. Hopper and Millett (2012, 1417): “To those travelling abroad, *symbola* offered protection from *sylē* (summary seizure of property) and other forms of harassment.”
 - 10 E.g., Olympiod. Plat. *Alcib.* Comment. 182.11–12; [Dem.] 7.9–13; Antiph. 5.78 (*kai dikas apo ksymbolon hymin dikazomenous*). See also Lipsius (1905–15, 69): “Rechtsverträge,” with reference to Arist. *Ath. Pol.* 59.6 (τὰ σύμβολα τὰ πρὸς τὰς πόλεις οὔτοι [i.e., the *thesmothetai*] κυροῦσι, καὶ τὰς δίκας τὰς ἀπὸ τῶν συμβόλων εισάγουσι), 70: “private suits” (such as *emporikai* and *metallikai*), 965–977: *dikai apo symbolon* (with numerous examples); Busolt (1926, 1094 n. 5) (with sources), 1100, 1244; Glotz (1928, 312–314); Gernet (1955, 181) (see n. 15 below); Gauthier (1972, 89–91); Cataldi (1983, 181–230); Hopper and Millett (2012, 1417): on *dikai apo symbolon* as lawsuits conducted “according to the terms of these treaties.”
 - 11 *IG* I³ 127 (= *Syll.*³ 116 = *GHI* 96 = *ML* 94).11–17 (405–404 B.C.). Hierapytna and Priansus: see n. 5 above.
 - 12 Riele (1987, 168–169) (= *SEG* 37, 340).10–16 (early fourth cent. B.C.) with his commentary on p. 179: “the contracts made between the people of Helisson remain valid” and that by Laurent Dubois, in *RÉG* 101 (1988), 396: “private contracts between the Helissonians”; Thür and Taeuber (1994, 98–112 no. 9) (“ca. 350–340 v.Chr.”), incl. 103 n. 15 (“private economic transactions”), 106 n. 2 (“private claims”); Giovannini (2007, 265).
 - 13 Welles, *RC*, no. 3, ll.24–26 (ca. 303 B.C.; tr. C. B. Welles, slightly modified). Pace Riele (1987, 179), who objected to establishing a parallel between this case and that of Helisson and Mantinea. *I.Erythrai* 114.7 (third cent. B.C.).
 - 14 *I.Iasos* 2.24–25 (309–305 B.C.); *IG* XII.6, 95 (ca. 280 B.C., tr. M. M. Austin). See also Feldmann (1885, 26) (with n. 2).
 - 15 Cf. Gernet (1955, 181): “the treaties by which cities reciprocally guaranteed justice for the nationals of the one, who resided on the territory of the other.”
 - 16 A. Giovannini, in *Epigraphica Anatolica* 37 (2004), 75: “the συμβόλαια mentioned in line 25 are the contracts, that is, first and foremost, the debts incurred by the soldiers during their stay in Iasus,” following the interpretation by J. Robert and L. Robert, in *RÉG* 84 (1971), 500–502, no. 620.
 - 17 Michel, 3.B = Giovannini (2007, 316), no. C1.B (late fifth cent. B.C.); cf. H. Bengtson’s commentary ad *StV* 2, no. 146, p. 50 (“ein Gesetz, wahrscheinlich von Chaleion”).
 - 18 *StV* 2, no. 149 (H. Bengtson: “contract”) = Giovannini (2007, 317), no. C2 (with his commentary on p. 318), ll.5–11 (dated to ca. 450 B.C.? by Bengtson, but see his note on p. 58, and to ca. late fifth or early fourth cent. B.C. by Giovannini). For this responsibility of the Polemarch, see chapter 3.
 - 19 The common understanding has been that the trial was to take place in the city of the defendant: e.g., Lipsius (1905–15, 966) (with reference to the above-quoted excerpt from the speech *On Halonnesus*); G. E. M. de Ste. Croix, in *CQ* n.s. 11 (1961), 105–106, 110; Meiggs (1972, 229–230); D. Whitehead, in eds. R. M. Rosen and J. Farrell 1993, 325. Cf., however, the view that the defendant had to stand trial in the city of the plaintiff: Thür and Taeuber (1994, 204, 235, 237). According to Gauthier (1972, 174–183), the choice of the place for the trial was guided by practical considerations and depended on specific circumstances, such as the location where the alleged offense took place and/or if both parties were present to participate at the trial.
 - 20 E.g., Lipsius (1905–15, 967–968); Giovannini (2007, 302–308).
 - 21 Cf. Gauthier (1971, 54, 1972, 137–138, 198); see page 54, n. 128.

- 22 E.g., Gauthier (1971, 54–55): the right of access to the magistrate; the protection against the seizure of property and imprisonment.
- 23 Gauthier (1972, 364–373) limited his analysis to *isopoliteia*, thus passing over the evidence for *sympoliteia* and never raising the general problem of interrelationship between *politeia* and *symbola*. In fact, his understanding of *(iso)politeia* as “potential citizenship” (364) affected his vision of *symbola* in general, and in specific situations like that on Samos (*IG* I³ 127; see n. 11 above), which he termed as an “exceptional case” (364–365), as well as Messene and Phigalea, which he explained with reference to “federal isopolity” (366–368, 372–373). While Gauthier acknowledged the potentially important role of isopolity for the legal status of aliens in Greek cities during the Hellenistic period, he did not move any further, because of sources that he termed as “not very intelligible.”

Appendix 5

The “ancestral constitution” (*patrios politeia*)

The nature of *politeia*, as a concept and a regime, is further revealed by examining the term *patrios politeia* – usually translated as “ancestral” or “paternal” or “traditional constitution” – which became a part of the political vocabulary in Athens in the late fifth century.¹ Among many ancient authors who used this term and its cognates, Isocrates (12.114–116) applied two expressions, the *politeia* “of the ancestors” (*progonoi*) and the *politeia* “of the fathers” (*pateres*), claiming that the latter had a “more relaxed order.”

The significance of the Athenian “ancestral constitution” and the identification of its founder in the Athenian historiography of the late fifth and fourth centuries have been examined in great detail.² The main focus of this short note is a challenge posed by the fact that different political factions in Athens used the expression *patrios politeia* equally, and they similarly claimed to adhere to, or pursue the restoration of, the “ancestral constitution.”³ For example, the situation in Athens at the end of the Peloponnesian War (404) was described in the following way in the *Athenian Politeia*:

The peace having been concluded on terms of their carrying on the government according to the ancestral constitution (*politeusontai ten patrion politeian*), the popular party (*hoi men demotikoi*) endeavored to preserve the democracy, but the notables who belonged to the comradeships (*ton de gnomimon hoi men en tais hetaireiais ontes*) and those exiles who had returned after the peace were eager for oligarchy, while those notables who were not members of any comradeship but who otherwise were inferior in reputation to none of the *politai* were aiming at the ancestral constitution (*ten patrion politeian ezetoun*); members of this party were Archinus, Anytus, Cleitophon, and Phormisius, while its chief leader was Theramenes. And when Lysander sided with the oligarchical party, the people were cowed and were forced to vote for the oligarchy (*kataplageis ho demos enankasthe kheirotonein ten oligarkhian*) . . .

and by Diodorus:

The Athenians, completely reduced by exhaustion, made a treaty with the Spartans whereby they were bound to demolish the walls of their city and to

employ the ancestral constitution (*te patrio politeia khresthai*) . . . those who were bent on oligarchy asserted that the ancient organization (*ten palaian katastasin*) should be revived in which only a few represented all, whereas the greatest number, who were partisans of democracy, made the *politeia* of their fathers (*ten ton pateron politeian*) their platform and declared that this was by common consent a democracy . . . (Theramenes) read the terms of the peace, which agreed that they should enjoy the *politeia* of their fathers (*te patrio synephonese khresesthai politeia*).⁴

Aristotle and Diodorus distinguished three major political factions in Athens at that time: the popular party, or the democrats; the oligarchs; and the moderates, led by Theramenes, who claimed to be striving to restore the "ancestral constitution." Most interesting, however, is that Lysander and the Spartans, who also supported the restoration of the "ancestral constitution" in Athens, did not side with the moderates but with the oligarchs.⁵ Both the party of Theramenes and the oligarchy of the Thirty (which, with Spartan support, soon came to control Athens), therefore, sought to replace democracy with the "ancestral constitution."⁶ According to Aristotle (*Ath. Pol.* 35.2), the oligarchy of the Thirty claimed to be restoring the *patrios politeia* by removing the laws concerning the Areopagus, authored by Ephialtes and Archestratus, as well as "such of the ordinances of Solon as were of doubtful purport." The *patrios politeia*, therefore, was seen as being based on Solon's laws, or those considered to have been authored by him. Thrasybulus was also campaigning against the Thirty under the slogan of restoring the "ancestral constitution" to the people (Diod. 14.32.6). And once the tyranny of the Thirty was overthrown, the Athenians enacted a decree to have their *politeia* as before (*kata ta patria*) and to use the laws of Solon, as we read in one of the speeches by Andocides (1.83: *politeuesthai Athenaios kata ta patria, nomois de khresthai tois Solonos*). It has generally been agreed that the Athenian democrats restored the "ancestral constitution" once the rule of the Thirty was over.⁷

The use of the expression *patrios politeia* re-emerged at the end of the Lamian war (323–322), when Antipater defeated the Athenians and established control over their city. According to Plutarch (*Phoc.* 27.5), one of his conditions was that the Athenians reverted to their "ancestral *politeia* on the basis of census" (*politeuomenois de ten patrion apo timematos politeian*). Diodorus says that the oligarchy of 322–318 claimed that the newly established *politeia* corresponded to the laws of Solon (*kata tous Solonos nomous epoliteuonto*).⁸ However, the abolition of Antipater's settlement was also presented as a return to *patrios politeia*. The description Plutarch gave of those events (*Phoc.* 32.1) refers to Polyperchon's declaration that the king restored "democracy" and ordered all Athenians to enjoy the "ancestral *politeia*" (*tou basileos apodidontos autois ten demokratian kai politeuesthai kata ta patria pantas Athenaios keleuontos*). When Demetrius of Phalerum established a property census on the possession of *politeia* in Athens later in the fourth century, he was probably acting in the name of the "ancestral constitution" as well.⁹ But the abolition of Demetrius's census in 307 was, likewise, viewed as if the Athenian people received back their "ancestral constitution" (Diod. 20.46.3: *ekomisato ten patrion politeian*). Similar evidence also exists

concerning the use of this phrase throughout Greece. Polybius (2.47.3) criticized Cleomenes III for overthrowing the *patrios politeuma* and turning a lawful kingship (*ennomon basileian*) into a tyranny. According to Plutarch (*Cleom.* 10.1–9), however, Cleomenes's reform reintroduced the measures of Lycurgus, the semi-legendary founder of the Spartan state, and thus restored what he claimed to be the "ancestral constitution."

How could democrats, oligarchs, and tyrants all claim to act on behalf of the "ancestral constitution"? The suggested interpretations of Antipater's reform have been a qualification to the status of an active citizen (Gustav A. Lehmann) and "a major change in the constitution by redefining qualifications for citizenship" (James M. Williams, Robert M. Errington).¹⁰ But interpreting *patrios politeia* as a specific political regime requires an explanation of why different Athenian political factions could use the same slogan. In a display of academic brilliance and erudition, which offered numerous alleged historical parallels to what we see in ancient Athens, Moses I. Finley's analysis (1975, 49) has explained this situation as attempts to create a "usable past." But this did not solve the problem. Others have interpreted a reference to the "ancestral constitution" in the time of Antipater as simple propaganda with no specific meaning, precisely because of the difficulty of tracing a government with the same political organization in Athenian history.¹¹ Likewise, Cleomenes III is said to have used the restoration of the ancestral constitution as "mere propaganda" in order to "raise the number of citizens eligible for the army."¹² Some might certainly have seen such claims as mere pretensions. However, this approach does not solve the problem of why different factions could use the slogan of *patrios politeia*, and its cognate expressions, to publicly promote their diverse political programs. Still others have argued that the understanding of *politeia* evolved from a specific political regime, meaning "radical democracy," to a "social ideal."¹³ But how could the fifth-century understanding of *patrios politeia* be limited to "radical democracy" if different political factions used this expression to promote their interests? And how can the evolution of the same concept explain its diverse synchronous use by different political factions?

It could well be that, as K. R. Walters and those following him have suggested, the expression *patrios politeia* did not appear until the mid-fourth century and was then applied retrospectively to the events of the late fifth century.¹⁴ Walters used this assertion to insist that later references to events of the fifth century were inventions: "The entire distinction in *AP* 34.3 between the democrats who wanted to keep the democracy, radicals who wanted oligarchy, and Theramenes's circle that sought the ancestral constitution is a fabrication."¹⁵ When, exactly, the expression *patrios politeia* emerged appears to be of little significance, however. The politicians of the late fifth century probably used expressions other than *patrios politeia*, such as *kata ta patria*.¹⁶ Yet, the fact that the phrase *patrios politeia* was used in retrospect does not mean we should dismiss this information altogether. In the same fashion, the retrospective application of the word *politeia* to Solon's reform in Athens cannot, by itself, justify discarding the evidence for Solon's legislation (see chapter 4). Most important, this approach of dismissal does not answer the question about why different political factions could use the same slogan.

The answer to this question seems to lie in the combination of two developments. One of them was that, as a reflection of individual social and legal status, *politeia* – originally, and for some time – had no connection to political rights. Far from all of the *politai* had political rights, either under Solon’s regime (if, similar to later Greeks, we qualify it as *politeia* in retrospect) or in later times. Some *politai* “by nature” (such as women, children, and the *atimoi*) and *politai* “by decree” (at least before grants of *politeia* began to be accompanied by enrollment in demes) had no political rights (see page 286, n. 14). All of the suggested modifications of *politeia* were not focused on political rights per se but on how *politai* “by nature” were to be defined, thereby either increasing or decreasing their number. Three types of *politeia* “by nature” were possible – either all the *gnesioi* (those born from two *astoi* in engyetic marriage) had *politeia* “by nature,” i.e., simply by virtue of their birth, which was the system that Solon established in Athens; or some of the *gnesioi* were deprived of their *politeia* “by nature” through additional restrictions, such as a property census; or, finally, *politeia* “by nature” could be allotted to not only the *gnesioi* but also to people of “impure origin,” of whose parents only one or none belonged to the *astoi* (see chapter 5).

This was a relatively simple system, except for one issue that complicated the situation and only revealed itself when examined in development. As we have seen above, Solon’s reform distinguished between *politeia* and political rights. While turning all the *gnesioi* into *politai* “by nature,” he allotted political rights (including the right to occupy offices and council seats) to only those who possessed a certain amount of personal agricultural income. By offering equal political status to all (adult) male *gnesioi*, Cleisthenes’s reform removed this distinction. The second development, therefore, was that all adult male *gnesioi* were now expected to have both *politeia* (“by nature”) and political rights. As a consequence, someone’s status as a *polites* and his political status became fused into one and the same thing, transforming the meaning of *politeia*. A loss of political rights (as, for example, through a property census), therefore, also meant losing *politeia* as a privileged social and legal status in the city. Conversely, in the case of adult males, a loss of *politeia* “by nature” as a result of *diapsephismos* (see chapter 5) meant the loss of political rights. Solon’s regime still guaranteed even those *gnesioi* who had no political rights in Athens – such as the *thetes* (and, probably, the *zeugitae*), who were politically disqualified due to the low amount of their personal agricultural income – the status of *politai*. However, after Cleisthenes’s reforms, any introduction of an economic census in the fifth and fourth centuries meant the loss of both political rights and *politeia*, because by that time the meaning of *politeia* had evolved to include not only an individual’s social and legal status but also his political rights. This is the problem Aristotle had to deal with when he tried to identify his “perfect *polites*.”¹⁷ The evolving meaning of *politeia* has also influenced modern studies by, for example, provoking debates about whether the Five Thousand (in 411–410) and the Three Thousand (in 404–403) were “full citizens” (i.e., with “active citizenship”) or only had access to the assembly and the courts without the right to occupy city offices,¹⁸ i.e., similar to Solon’s *thetes*. The confusion was caused by mixing an individual’s legal and political status.

Formally, even though the legal system determined who had political rights and who did not, a change in the legal system cannot be reduced to a political reform. In practical terms, however, any limits imposed on *politeia* meant the loss of political rights. For example, in claiming to restore the “ancestral constitution” in Athens after the Peloponnesian war, the “oligarchs” and the Spartans opted for the *dynasteia*, i.e., a more radical form of oligarchy that deprived most of the Athenians of *politeia*. Raising the slogan of the “ancestral constitution,” Theramenes urged the Thirty to “admit the best people to share in affairs” (*metadounai de ton pragmaton tois beltistois*), thus allowing three thousand people to have a share in *politeia* (*katalegousin ton politon triskhilious hos metadosontes tes politeias*),¹⁹ which created a milder form of oligarchy. Errington described a similar reform by Demetrius of Phalerum as “weaken[ing] the democratic opposition by halving the property census required for citizenship to a capital of 1,000 drachmas, a regulation that immediately broadened the base of citizenship,” whereas Williams pointed to the same measure as allowing more than half of the Athenian citizens the right to vote.²⁰

The fact that different political factions used the same expression, *patrios politeia*, is best explained by the broad meaning of the word *politeia*. It did not originally designate specific political regimes but the legal basis of a *polis*. Solon gave *politeia* to all the *gnesioi*, but not all of the *gnesioi* had political rights. However, after Cleisthenes gave all adult male *gnesioi* the same legal and political rights so that *politeia* came to be applied to political regimes and associated with the possession of political rights, Solon’s reforms were correspondently reinterpreted in retrospect. Solon’s *politeia* (this word was also retrospectively applied to the system established by Solon) was understood to have included not only a privileged social and legal status in the city but also the possession of political rights.²¹ However, the original meaning of *politeia* did not include political rights: the word *politeia* emerged as a social and legal concept and retained this meaning even after it acquired a political connotation and became associated with political regimes. This explains the diverse understanding of the expression *patrios politeia* and its use by Athenians in different political settings and for different political purposes in the classical period and later.

Notes

- 1 E.g., Fuks (1953, 103, 107). See also Cecchin (1969, 27); Lehmann (1997, 13, 20, 66). Earlier bibliography: e.g., Walters (1976, 139 n. 1). Later works: B. S. Straus, in eds. R. M. Rosen and J. Farrell 1993, 255 (with n. 1). This term was retrospectively used for earlier events, like the trial of Cimon for subverting the ancestral constitution: Dem. 23.205, with Piccirilli (1987, 139–140).
- 2 See esp. Ruschenbusch (1958, 398–424); Hansen (1990, 71–99); Flament (2007, 300–305).
- 3 The only person, to my knowledge, who specifically examined the problem of how different political factions in Athens used this same concept has been Fuks. However, his still very important study largely focused on sources about the use of *patrios politeia* in the late fifth century, without examining the meaning of the concept of *politeia*, which emerged earlier and was used in other fields besides the struggle among Athenian

political factions. See also Caire (2016, 262–287), who (286) interpreted the use of the slogan of *patrios politeia* by various political factions as a “propaganda model” that served to present proposed political changes under the guise of only restorations of the political regimes that had already existed in the past.

- 4 Arist. *Ath.Pol.* 34.3; Diod. 14.3.2, 14.3.3, and 14.3.6.
- 5 Walters (1976, 133, 135). Fuks (1953, 58, 68) argued that *Ath.Pol.* 34.2–3 and Diod. 14.3.2, 14.3.3, and 14.3.6 (see preceding note) are the only sources about the inclusion of the clause on ancestral *politeia* in the treaty that ended the Peloponnesian war, and rejected their authenticity. But he did not deny either that the treaty could have included a general clause to the effect that Sparta was not supposed to interfere in Athens’ domestic affairs (61) or that different political factions in Athens had used that same slogan to promote their agendas (65–66, 108–109).
- 6 McCoy (1975, 140–141).
- 7 McCoy (1975, 134 n. 15, 139–141); Bearzot (1997b, 64); Heftner (2001, 226–227).
- 8 Diod. 18.18.5, with P. Cloché, in *Revue historique* 144 (1923), 178–181, with projected numbers.
- 9 Cf. S. Dow and A. H. Travis, in *Hesperia* 12 (1943), 154: “His constitution was doubtless put forward as being *kata ta patria*.”
- 10 Lehmann (1997, 55–56); Williams (1982, 117–120); Errington (2008, 17).
- 11 E.g., A. Natalicchio, in *Quaderni di storia* 32 (1990), 74; Williams (1982, 119–120): “The reference to the new constitution as ‘ancestral’ is probably no more than propaganda.” See also Caire (2016, 262–287) (see n. 3 above).
- 12 Errington (2008, 99). Similar views: Oliva (1971, 244) (with n. 6); Marasco (1981, 1): 124–125, and 2: 450. For reinterpreting Cleomenes’s reform, see page 206, n. 39.
- 13 E.g., Witte (1995, 153–154) (focusing on the fourth century).
- 14 Walters (1976, 131); Blösel (2000, 88).
- 15 Walters (1976, 137, 131): “It was a historical hoax, revisionist history, designed neatly to package the chaos of fifth-century political and constitutional history and, tendentiously, to justify Theramenes and his friends to the fourth century.”
- 16 E.g., And. 1.83 (see above). Walters (1976, 133, 135) (with reference to the treaty that ended the Peloponnesian war); cf. Arist. *Ath.Pol.* 34.3: Sparta and Athens made peace on the condition that Athens would be ruled according to the “ancestral constitution” (*ten patrion politeian*).
- 17 Arist. *Pol.* 3.1.4, 1275a.14–27 and Arist. *Ath.Pol.* 7.3 (see page 159, nn. 48 and 50).
- 18 The first view: Lehmann (1987, 35 n. 5) (on the Five Thousand); Welwei (1992, 250) (on the Three Thousand). The second view: Ste. Croix (1956, 12).
- 19 Arist. *Ath.Pol.* 36.1.
- 20 Errington (2008, 25); Williams (1982, 170), following Gehrke (1978, 174–178): fifteen thousand out of twenty-one thousand.
- 21 This was also one of the reasons why Solon, who introduced the principle of legitimacy in Athens (see chapters 1 and 2), was later regarded as the father of Athenian democracy: e.g., Arist. *Ath.Pol.* 41.2; see chapter 4 and page 265, n. 23.

Appendix 6

The *politeia* of the younger Pericles

Probably the most famous individual grant of Athenian *politeia* was the one awarded to the younger Pericles, a bastard son of the great Pericles by Aspasia.¹ This grant has gained a lot of attention because of the identification of *politeia* with “citizenship” and because the younger Pericles received *politeia* from Athens some time after his father had proposed (in 451–450, which has been the commonly accepted dating, even if disputed by some), and the people approved, the regulation that only *gnesioi*, or those who were legitimately born, could have *politeia* in Athens:

(Arist. *Ath.Pol.* 26.3) in the year of Antidotus, because of the large number of *politai* (*dia to plethos ton politon*), an enactment was passed on the proposal of Pericles confining *politeia* to those whose both parents were *astoi* (*ex amphoin astoin*).

(Plut. *Per.* 37.3) only those could be Athenians who were born of two Athenians (*ek duein Athenaion gegonotas*).

(Ael. *Var.Hist.* 6.10, 13.24) Pericles proposed in Athens a law (*nomon*) that unless both parents were *astoi* a man should not have *politeia* (*touto me meteinaí tes politeias*). The two sons he had, Paralus and Xanthippus, died in the epidemic of plague. Pericles was left with his illegal children (*epi tois nothois*), who could not partake in *politeia* (*hoiper ou meteskhon tes politeias*) owing to their father’s law [. . .] Pericles proposed that whoever was not the child of two *astoi* (*hos me eks amphoin gegonen astoin*) should not be an Athenian (*me einai Athenaion*). Then he lost his legitimate children (*tous gnesious paidas*) and was left with his illegitimate son Pericles (*epi to notho Perikleí*).

Pericles’s proposal has been interpreted as a “citizenship law”² and as one of the most important landmarks in the development of Athenian *demokratia*.³ Later Greek and modern authors, therefore, viewed the grant of *politeia* to the younger Pericles as if his father had to break his own law for that purpose, whereas modern scholars have regarded this *politeia* as “Athenian citizenship.”⁴

However, neither the idea that Pericles introduced a special “citizenship law” nor that he had to break it in order to secure “citizenship” for his son by Aspasia should be accepted. Pericles’s enactment merely upheld the rule that only *gnesioi* were entitled to *politeia* “by nature” in Athens. This arrangement, which Solon’s reforms first set up in the early sixth century, as we examined in chapter 1, was reinstated with the help of scrutinies (*diapsephismoi*) of *politai* “by nature” in 510, 445–444, 403–402, and 346–345, because people of “impure origin,” or non-*gnesioi*, were also able to claim to be *politai* “by nature” during certain periods of Athenian history (see chapter 5). Most important, *diapsephismoi* only verified the status of *politai* “by nature,” not *politai* “by decree.” Since the rule was that only *gnesioi* could become *politai* “by nature,” and since the younger Pericles was not a *gnesios* but a *nothos*, he could only receive *politeia* “by decree,” that is, as a gift from the city of Athens.⁵ This was how he eventually got his *politeia*. And this is what Pericles was asking from the Athenians.

Since Pericles did not introduce a “citizenship law,” there was no way he could break it. The view that Pericles broke his own law appears to have been based on two late sources. One of them is Plutarch, an author from the second century A.D., who (*Per.* 37.5) asserts that Pericles’s law was suspended for his own sake. However, Plutarch also makes it clear that what the younger Pericles received was a place in a phratry:

It was, accordingly, a grave matter that the law which had been rigorously enforced against so many should now be suspended by the very man who had introduced it, and yet the calamities which Pericles was then suffering in his family life, regarded as a kind of penalty which he had paid for his arrogance and haughtiness of old, broke down the objections of the Athenians . . . they suffered him to enroll his illegitimate son (*nothos*) among the members of the phratry (*eis tous phratoras*) and to give him his own name.

The second source, the *Suda* (a Byzantine compilation, generally dated to the tenth century), contains a contradiction that has so far gone unnoticed in corresponding discussions. The *Suda*’s entry on *demopoiectos* also says that Pericles broke his own law, but it correctly informs us that the younger Pericles received *politeia* “by decree,” i.e., like any other person who was not entitled to *politeia* “by nature.” He was made a *polites* by the people (*demos*), and the *Suda* refers to the younger Pericles as a *demopoiectos*, thus distinguishing his status from that of an *astypolites*, i.e., a *gnesios* who was a *polites* “by nature”:

Demopoiectos is the one who was made by the people and became a *polites*. Thus Pericles, the son of Xanthippos, wrote a law that no one could be an *astypolites* unless he was born from two [*astoi*] (*ex amphoteron* [*aston*]). But not a long time afterwards, hearing that he had lost his *gnesioi* sons, and moaning, he untied his own law and disgraced himself, as he happened to be both pitied and hated for what he wanted. Thus he begged and bribed those who lived then, so that at long last with toil and pain he made *demopoiectos*

the bastard son that he had by Aspasia of Miletus (*ton nothon . . . epoiese demopoieton*). For *demopoiotos* is an alien by nature (*physei*), who became *polites* by (the decision of) the people (*hypo de tou demou*).

Aelian also spoke of the younger Pericles as a *demopoiotos*, using the same expression that we see in the *Suda*.⁶ Other ancient texts and later Byzantine *lexika* likewise qualify *demopoietai* as those who – being unable to obtain *politeia* “by nature” because of their status as non-*gnesioi* – were made *politai* “by decree” by the people (*demos*).⁷ This concept was applied with reference to grants of *politeia* to the Scythian Anacharsis (who allegedly became a *demopoiotos* in Athens in the time of Solon); to those foreigners who permanently settled in Athens to ply their trade, and who received *politeia* from Solon; to the philosopher Zeno, an alien (*xenos*) who was made a *demopoiotos* at Athens “for his discourses”; and to a harp-player Epigonos, an Ambracian “by nature,” who became a *demopoiotos* in Sicyon in the sixth century.⁸

Reflecting the opinion that Pericles requested citizenship for his bastard son, Osborne used the reference in the *Suda* to qualify the *politeia* of the younger Pericles as an “act of naturalization.” This opinion was possible because *politeia* has become identified with citizenship. However, Plutarch, Aelian, and the *Suda* all say that Pericles only wanted to obtain *politeia* and, according to Plutarch, membership in his phratry for his son. Those who consider membership in a phratry to have designated “effective citizenship,” of course, interpret this episode as Pericles’s having requested citizenship for his son.⁹ But phrateres cannot be qualified as citizens because not all of them had political rights: phratries also included women and non-*gnesioi*, such as Euctemon’s son by Alce, although this evidence belongs to about a hundred years later.¹⁰

According to Müller and Humphreys, Pericles wanted his son to be enrolled in a deme. Humphreys and Stadter have claimed that the reason the younger Pericles was enrolled only in a phratry was because he was not yet old enough for deme registration, thus asserting that “citizen *nothoi*” could be registered in demes.¹¹ It is possible that he was, indeed, too young for a deme registration at that moment, and that he received it some time later.¹² This would not be surprising as such: grants of *politeia* could be accompanied by deme registration for the recipients, although if the younger Pericles did indeed obtain deme registration, his case will have preceded the earliest-known such grants by much more than a century.¹³ What remains the same is that, by the request of the elder Pericles, his bastard son received *politeia* from Athens and became a *demopoiotos*, just like all of the other recipients of *politeia* “by decree.” This situation was embarrassing for Pericles not because he had broken his own law (since he had not) but because the younger Pericles had not rendered any service to the people of Athens to receive this privilege, except for being the son of his father. As noted above, recipients of *politeia* “by decree” had to be benefactors of the granting city, at least in democratic Athens (see chapters 5 and 6). When the Athenians granted *politeia* to the younger Pericles solely out of respect to his father, they circumvented the basic requirement of the scrutiny (*dokimasia*) of *demopoietai*. It is possible that they

gave *politeia* to the son in return for the benefactions of his father. And this was probably one of the arguments, if not the only argument, in favor of fulfilling Pericles's request. Aside from this, the grant of *politeia* to the younger Pericles was perfectly compatible with the existing legislation: any non-*gnesios* – a bastard (*nothos*),¹⁴ an alien (*xenos*),¹⁵ or a resident alien (metic)¹⁶ – could acquire *politeia* “by decree,” which might or might not mean the acquisition of political rights, or citizenship.¹⁷ There is, likewise, no basis to think that the younger Pericles was “declared legitimate” as a result of his father's request,¹⁸ and to use this evidence to support ideas about the citizenship of bastards (see appendix 1).

Notes

- 1 Harp. A 249 (= the *Suda*, A 4202 = *Anecd. Gr.* I 453 [B.]): δοκεῖ δὲ καὶ ἐξ αὐτῆς ἐσχηκέναι Περικλῆς τὸν ὁμώνυμον αὐτῷ Περικλέα τὸν νόθον.
- 2 E.g., Ledl (1909, 34–38); Humphreys (1974, 93–94); Prandi (1982, 118); Sealey (1990, 13–14); Stein-Hölkeskamp (1989, 225); Rhodes (1992, 77); French (1994, 71); with useful summaries in Carlier (1992, 114, n. 25); Podlecki (1998, 160–161).
- 3 See chapter 5 and, also, e.g., Cataldi (1983, xvii); Braund (2000, 114–115); Hartmann (2000, 25); Deene (2011, 162).
- 4 E.g., Ael. *VH* 6.10; Plut. *Per.* 37.5. For example, Müller (1899, 820); Humphreys (1974, 94, 1993, 64); Patterson (1981, 141, 2005, 278); Osborne (1983 (3–4), 199); Baslez (1984, 101–102); Carlier (1992, 114); French (1994, 71); Lonis (2000, 80); W. Will, in *NP* 9 (2000), 572; Hartmann (2000, 25–26); Blok (2004, 20); Carawan (2008, 383); Kamen (2013, 81); Azoulay (2014, 83). Cf. Vêrilhac and Vial (1998, 56) on this case as an exception.
- 5 Cf. grants of *politeia* to *nothoi* elsewhere: *Milet* I 3, 41.I.7 (226–225 B.C.), 64.7 (third–second cent. B.C.), 65.II.7 (third cent. B.C.?); 70.5, 72.5, 74.1, 87.4, 89.3 (third–second cent. B.C.).
- 6 The *Suda*, Δ 451. Claud. Ael. fr. 71: *kai molis ton nothon hoi paida ton ex Aspasias tes Milesias epoiese demopoieton*.
- 7 E.g., [Aeschin.] Ep. 12.13; Din. 32. fr. 2; Harp. Δ 29 (*ho xenos men on tei physei, hypo de tou demou polites gegenemenos*); Hesych. s.v. δημοποίητον (*ho kata psephisma demou gegonos polites, xenos on physei*).
- 8 Lucian. *Scyth.* 8; Plut. *Sol.* 24.4; Themist. *Or.* 2 (Schenkl, 31–32) = Arist. fr. 88.16–17; Athenae. 4, 183d.
- 9 Osborne (1983 (3–4), 199). E.g., Prandi (1982, 19). For associating political rights, or citizenship, with membership in one or several city organizations, see chapter 6.
- 10 Women: Isae. 3.73 (see page 48, n. 59). Euctemon's son by Alce: Isae. 6.22–28, with page 53, nn. 119–120.
- 11 Müller (1899, 820); Humphreys (1974, 90, 94 n. 13); see also Stadter (1989, 340); Kennedy (2014, 18).
- 12 Cf. Osborne and Byrne (1994, 366); Nails (2002, 227): Pericles the Younger was born around 445. They interpreted a later inscription that mentions a certain Pericles with a demotic in the sense that the younger Pericles eventually obtained deme registration; see *IG* I³ 375.8: Περικλεῖ Χολαργεῖ καὶ συνάρχουσιν ἡίπποις (410–409 B.C.). However, this is the only such piece of evidence, and the name was not at all rare; Ste. Croix (2004, 240) never raised such a possibility.
- 13 E.g., Osborne (1983 (3–4), 27–29) (= T 5: 430 B.C.). Athenian grants of *politeia* referred to deme registration from the early fourth century: see page 251, nn. 121–122. For grants of *politeia* offered together with deme membership, see also *IG* II² 646.31–52 (294 B.C.), 654.46–56 (287–286 B.C.), 663.21–33 (283–282 B.C.), 804.7–13 (mid-third cent. B.C.).

- 14 Arist. *Pol.* 3.3.4–5, 1278a.28–29; 6.2.9, 1319b.7–11. Lotze (1981, 161–162): some *nothoi* could be *politai*.
- 15 E.g., Dem. 20.30 (ca. 355–354 B.C.); Harp. Δ 29 (see n. 7 above).
- 16 E.g., Plut. *Sol.* 24.4 and *IG* II² 10.A (= *GHI* 100).5–7 (401–400 B.C.).
- 17 Since the new status was granted by a people’s decree and not by one’s origin, this had nothing to do with the alleged citizenship of bastards: see appendix 1.
- 18 Patterson (1990, 55) (n. 61); Cox (1998, 185). If the younger Pericles was indeed enrolled in a deme (see above), we might call him a “citizen” (Cox, *loc.cit.*), but there is no way he could have been transformed into a *gnesios*.

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